



National Audit Office

Report

by the Comptroller
and Auditor General

**Department of Health & Social Care, NHS England,
NHS Business Services Authority**

Investigation into penalty charge notices in healthcare

Key facts

5.6m

penalty charge notices
(PCNs) issued since 2014

£133m

recovered by NHS
Business Services
Authority (NHSBSA)
since 2014

£246m

outstanding debt owed
to the government
through unpaid PCNs
since 2014

£212 million estimate of the loss to the NHS from prescription and dental fraud in 2017-18

30% of PCNs issued since 2014 were later cancelled by NHSBSA as a valid exemption was subsequently confirmed to be in place

£11.2 million cost to NHSBSA of collecting £36.5 million of penalty charges in 2017-18, around 31 pence per £1 recovered

1 individual taken to court for repeated fraudulent claims against the NHS

36% of the value of PCNs issued since 2014 remains outstanding

£49 million estimated reduction in prescription fraud from 2012-13 to 2016-17

What this investigation is about

1 This investigation examines the health sector's use of penalty charge notices (PCNs). PCNs are sent to those who have claimed a free prescription or dental treatment when they were not entitled to do so; or have a valid exemption which cannot be confirmed at the time of checking. The NHS Business Services Authority (NHSBSA), which administers PCNs, has three main aims in relation to charges for prescriptions and dental treatment:

- to recover costs erroneously paid by the NHS;
- to deter and reduce fraud; and
- to ensure people are better informed about their eligibility to claim free prescriptions and dental treatment.

2 Each year, around 1.1 billion prescription items are dispensed and 39 million dental treatments undertaken. In 2019-20, each item on a prescription costs £9.00 and dental treatments are charged in three bands (£22.70, £62.10, £269.30), depending on the treatment. Some people are exempt from paying if they have a valid reason (for example they are under 16 or they receive certain benefits). Those who claim a free prescription or dental treatment without a valid reason, whether fraudulently or in error, could be issued with a PCN. A PCN has two components – the original cost of the prescription or dental treatment and a penalty charge of up to £100 (Appendix Two).

3 The Department of Health & Social Care (the Department) is the policy owner for this area. NHS England is the service owner, and commissions the NHSBSA to administer the loss recovery service for prescriptions and dental treatments. The Department for Work & Pensions (DWP) has a role in checking the data supplied by NHSBSA against its benefits database to confirm whether a customer was in receipt of a benefit at the time of the claim for a free prescription or dental treatment. NHSBSA also has a contract with Capita to issue a proportion of dental PCNs.

4 We undertook this work in response to concerns raised in the media and to us directly suggesting negative effects on the health of some people who have received PCNs. Recent media reports have noted the significant increase in PCNs issued, the difficulty of navigating the system for claiming an exemption and the consequences that can arise when vulnerable people struggle to deal with receiving a PCN. Various groups, such as the British Dental Association and the Prescriptions Charges Coalition, have publicly voiced similar concerns. The Department, NHS England and NHSBSA have acknowledged that the current exemption system has weaknesses. This is responsible for some of the problems with the PCN system.

5 These concerns relate to those who have received a PCN despite holding a valid exemption, and in particular to those who struggle to understand their eligibility for free prescriptions and dental treatments and how to navigate the system successfully. We recognise that there is a genuine tension between the use of PCNs to reduce fraud and error and the concern that they may cause for those who receive them. In this investigation, we set out the facts about PCNs (such as the numbers issued, and the amount paid), as well as the steps NHSBSA is taking to support those who have trouble understanding the system and/or paying the penalty charge.

6 We conducted our fieldwork in January and February 2019. We met with officials from the Department, NHS England and NHSBSA, as well as other government departments. We reviewed documents and data relating to the issuing of PCNs, visited the NHSBSA call centre and consulted with third-party stakeholders such as the British Dental Association and the Prescription Charges Coalition. Appendix One sets out our methods in more detail.

7 Our investigation focuses on:

- the entitlement to free prescriptions and dental care (Part One);
- the use of penalty charge notices to recover funds for the NHS and to deter fraud (Part Two); and
- improving knowledge about eligibility for exemptions (Part Three).

Summary

Key findings

The use of penalty charge notices (PCNs) to recover funds for the NHS

1 The NHS estimates that it lost around £212 million in 2017-18 from people incorrectly claiming exemption from paying prescription and dental charges.

In 2017, the NHS dispensed 1.1 billion prescription items in the community, and in 2017-18, issued 39 million courses of dental treatment. Around 89% of prescription items dispensed and around 47% of dental treatments were claimed as exempt from charges (paragraphs 1.2, 1.3, 2.11 and Figure 1).

2 There has been a significant increase in the exemption checks and total value of PCNs issued since 2014. NHS England has commissioned the NHS Business Services Authority (NHSBSA) to increase its exemption-checking activity significantly since 2014. For example, the number of prescription checks has risen from 750,000 in 2014-15 to 24 million by 2018-19. Over the period 2014-15 to 2018-19, although the number and value of prescription PCNs has been rising, the proportion of checks resulting in PCNs has been declining. In 2014-15, one in four checks resulted in a PCN, compared with 1 in 20 checks by 2018-19. Over this period the value of PCNs issued has risen from £12 million to £126 million per year for prescriptions and from £38 million to £72 million per year for dental treatments (paragraphs 2.2, 2.3, 3.6, 3.9 and Figures 4 and 5).

3 Since April 2014, NHSBSA has attempted to recover NHS funds from incorrect claims for free prescriptions and dental treatment by managing the distribution of 5.6 million PCNs with a total value of £676 million. Of these:

- £133 million (20%) were collected;
- £297 million (44%) were resolved without a penalty charge being paid; and
- £246 million (36%) remain outstanding (paragraphs 2.3 to 2.7).

4 Since 2014, around 1.7 million PCNs have been issued but subsequently withdrawn because a valid exemption was confirmed to be in place following a challenge. This represents 30% of the total number of PCNs issued since 2014, with a value of £188 million. A PCN issued where a valid exemption was later confirmed to be in place is one of three main explanations for why a PCN may be resolved without a penalty charge being paid. The other two explanations are:

- NHSBSA agreed to remove the penalty charge following communication with the individual concerned, although the cost of the prescription or dental treatment remained payable. Since 2014, NHSBSA has removed the penalty charge from 0.3 million (5%) PCNs with a value of £17 million.
- NHSBSA will cancel a PCN where the claimant cannot be identified and located based on the details provided on the prescription or dental form. Since 2014, NHSBSA has cancelled around 0.5 million (10%) PCNs with a value of £92 million (paragraph 2.6).

5 NHSBSA spent £11.2 million in 2017-18 on managing the PCN process, which equates to 31 pence per £1 recovered. In 2017-18, it cost NHSBSA £6.8 million to process PCNs for prescriptions and £4.4 million for dental charges. This cost, which includes the cost of the Capita service provided to NHSBSA, is covered by the income generated by PCNs, with the surplus paid to NHS England (paragraph 2.18).

Deterring fraud

6 NHSBSA has not always been able to collect debts from people who routinely misuse the system. Between September 2014 and March 2019, 114,725 people have received five or more PCNs for prescriptions, indicating a pattern of incorrect claims. However, until recently NHSBSA had taken no action against these people. The NHS Counter Fraud Authority has acknowledged that NHSBSA's work led to an estimated £49 million reduction in prescription fraud from £217 million in 2012-13 to £168 million in 2016-17, but said in 2019 that the focus of NHSBSA's PCN strategy had been on recovery of losses and charges from penalty notices. Capita runs a debt collection process for the dental cases it manages (paragraphs 2.12 to 2.13, and 2.16 to 2.17).

7 NHS England and NHSBSA are now starting to take a firmer approach to deterring fraud. In early 2018, NHSBSA started trialling an approach with people who have received five or more PCNs in a 12-month period but had made no attempt to pay. Under this new approach, selected repeat offenders are interviewed under caution at a police station and appropriate cases are shared with the Crown Prosecution Service (CPS) for a decision on whether to open criminal proceedings. To date, NHSBSA has submitted five cases to the CPS. One case was heard in court in January 2019. The defendant pleaded guilty, paid the prescription charges owed and received a conditional discharge. NHSBSA has sought approval from the Department of Health & Social Care (the Department) to implement a debt collection process for prescriptions. NHSBSA began a debt collection process for dental cases in January 2019 (paragraphs 2.14 and 2.15).

Reducing confusion caused by the complexity of the system

8 NHSBSA accepts that the rules around entitlement are complicated and recognises that genuine mistakes and confusion happen. The entitlements to free prescriptions and dental treatment are set by the Department. Factors which may cause mistakes and confusion include:

- **Universal Credit.** Universal Credit claimants are only eligible for exemptions if their monthly earnings are below a specified level. Additionally, there is no option to indicate receipt of Universal Credit on NHS prescription forms. The Department expects to update the paper version of the prescription form in late 2019.
- **Differences between benefits.** For example, a person who receives means-tested Jobseeker's Allowance is eligible for free prescriptions and dental costs, whereas a person who receives other types of Jobseeker's Allowance is not, although they might qualify for assistance under the NHSBSA's low income scheme. The key difference is that the income-based allowance is means-tested whereas the other is not.
- **Differences between dental and prescription criteria.** For example, people aged over 60 are entitled to free prescriptions but not to free dental treatment.
- **The need to apply for an exemption certificate.** For example, if a person is pregnant or suffers from certain medical conditions they must apply for an exemption certificate to obtain free prescriptions.
- **The length of time that exemptions apply for.** A medical certificate is valid for five years; a low-income scheme certificate depends on the person's circumstances; and benefit-related exemptions last as long as the benefit itself, except for Universal Credit where exemption status depends on monthly earnings (paragraphs 3.2 to 3.5, and Figure 2).

9 NHSBSA is unable to identify all vulnerable people in advance of issuing a PCN but will try to limit the impact where such people are later identified. NHSBSA attempts to reduce the likelihood of issuing a PCN to vulnerable people but is unable to prevent all vulnerable people from receiving a PCN. NHSBSA deals with this issue by removing penalty charges for those people it identifies as vulnerable after the person has challenged the PCN. This arrangement relies on the vulnerable person challenging the PCN, and not all vulnerable people may feel able to do so (paragraph 2.10).

10 NHSBSA has only recently undertaken its first national advertising campaign to inform people about PCNs. NHSBSA has been significantly increasing its checks since 2014. However, it only undertook a national advertising campaign for the first time in 2018. NHS England approved NHSBSA's £1.6 million funding request for the campaign to tell people to check before claiming an exemption or risk a PCN. Prior to this campaign, NHSBSA had provided advertising material to pharmacists and dentists and ran a small-scale advertising campaign in Stoke-on-Trent. It also began to develop online support tools to help people determine whether they are eligible for free prescriptions and dental treatment in 2017 (paragraphs 3.6 to 3.8).

Future developments

11 NHSBSA is developing a system to reduce the likelihood of fraud or error occurring in the first place. Currently, NHSBSA can only detect fraud and error after it has taken place, and the checking system is complex due to the different types of possible exemption. NHSBSA is working with the Department for Work & Pensions to develop a system that allows pharmacists and dentists to check peoples' eligibility for benefit-related exemptions at the time the transaction occurs. A pilot to check health-related exemptions in real-time began in February 2019 in four pharmacies. If successful, this kind of approach could significantly reduce the amount of fraud and error that occurs, and therefore the number of PCNs NHSBSA needs to issue (paragraphs 2.8, 2.9 and 3.7, and Figure 2).

Concluding comments

12 Free prescriptions and dental treatment are a significant cost to the NHS, so it is important that it can reclaim funds from people who are not exempt from charges and deter fraud. However, eligibility rules under the current system are complicated and difficult for people to understand, and NHSBSA still issues a significant number of PCNs that are later successfully challenged. Since 2014, NHSBSA has significantly increased the number of checks it carries out and the number of PCNs it issues but has only recently started taking commensurate steps to improve public awareness of the rules. A simpler system or better real-time checking will be important going forward in deterring fraud but not disadvantaging vulnerable people.