

Ref MS(CS) 500246

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Dear Stephen

During the Committee stage of the Personal Care At Home Bill on 12 January 2010, I sought to clarify for you, (*Hansard*, Vol 503, Col 575) and for the Hon. Member for North Norfolk, The Hon Member Norman Lamb, MP, (*Hansard* Vol 503, Col 580) that people would be able to receive a direct payment in lieu of the free personal care they were eligible to receive at home. I wish to make clear that both the assessment process and the provision of direct payments, are covered by separate legislation and are not provided for under the Bill. Assessment of need for community care services is provided for in section 47 of the NHS and Community Care Act 1990 and the making of direct payments is governed by section 57 of the Health and Social Care Act 2001 and regulations made under it. There is therefore no need to make provision for these matters in the Community Care (Delayed Discharges, etc) Act 2003. A person who is eligible to receive free personal care under the proposed regulations will be entitled to a direct payment in lieu of that care subject to fulfilment of the statutory conditions. This applies whether or not the person has a personal budget. For the sake of clarity, the guidance that will accompany the proposed regulations will make it clear that the personal care element, whether or not it is part of a personal budget, can be taken as a direct payment in accordance with the legislation and guidance. I am copying this letter to Sir Alan Haselhurst and placing a copy in the Library



PHIL HOPE