The marginal rate for emergency admissions
What you said, what we did, what has and still needs to be done

Monitor and NHS England have announced changes to the way urgent and emergency care services are funded.

We welcome these proposals as they show that our members’ concerns have been listened to and acted on.

Monitor and NHS England published a call for evidence in May 2013 that set off a review into the 30 per cent marginal rate rule for emergency admissions. This review was designed to support Monitor and NHS England as it took joint responsibility for the NHS payment system starting in 2014. Members had been raising a number of concerns with us about the way the marginal rate was being introduced and we were keen to put forward a genuinely whole system perspective that considered the diverse views and concerns of the different parts of the healthcare system.

The marginal rate for emergency admissions

A marginal rate for emergency admissions was introduced in the NHS in 2010/11. The rule saw NHS providers paid 30 percent of the regular Tariff price for emergency admissions above a baseline, which was set at activity reported in 2008/09. When the rule was introduced, the Department of Health made clear its purpose.

"The marginal rate will provide an incentive for closer working between providers and commissioners, to support the shift of care out of hospital settings to keep the number of emergency admissions to a minimum." - Department of Health, March 2010

We supported the marginal rate when it was introduced. In particular, we welcomed the attempt to share the risk of increased emergency admissions and to facilitate investment into demand management strategies, which were needed to help stem the tide of rising admissions. Between 2003 and 2010, more than one million additional people had been admitted through major A&E departments.

The mindset at the time expected that increased demand was being driven by providers and that a disincentive for admitting emergency patients would bring

---

1 Department of Health (2010) - Payment by Results: Guidance for 2010-11
admissions down. As the rule was implemented however, this belief was tested. Provider members told us that demand for urgent and emergency care was continuing to rise, and so we highlighted these concerns.

"That incentive [the marginal rate] was created to try to address what was perceived to be supply-induced demand...but in practice it has had no impact. Trusts have continued to see growth in demand, which suggests that the demand is real." - Mike Farrar at the Public Accounts Committee, January 2013

"The marginal tariff has in practice transferred the risk to providers and has not created a shared imperative for commissioners to actively engage with this issue and make changes to the local health service which will tackle rising demand." - Mike Farrar at the Health Select Committee, May 2013

What you told us
When the call for evidence was announced, we engaged with members in more detail to understand how the marginal rate was being implemented and what could be done to improve it. In particular, we went out to our Finance Member Reference Group, which includes members from across the whole of the NHS with a day-to-day interest in financial issues. We also discussed the review with members of our Hospitals Forum and Community Health Services Forum. The responses we received confirmed many of the concerns we had been raising and also highlighted specific issues that were important to feed into Monitor and NHS England's review.

"The concept that by applying a financial penalty on hospitals' emergency admissions it will reduce attendances is entirely flawed. Hospitals have no control over who and when patients present at Emergency Departments. The decision to admit is based on clinical assessment not financial implications." - Director of Finance, acute Foundation Trust

"The consensus is that this baseline [2008/09] is now too historic... It would be easier to derive a baseline more in touch with what's actually happening and monitor in-year." - Chief Financial Officer, Clinical Commissioning Group

"There is precious little evidence of the 70 percent being used to invest in alternatives to admissions in my health economy. In fact, I suspect that across the country the contractual requirement is not being applied consistently. Therefore, if there is one thing that could be improved in future it is to require total transparency as to how each CCG has utilised the 70%" - Director of Finance and Resources, community trust

"Our key concerns would be around ensuring parity, particularly around the 70% of the tariff which remains and ensuring that this is indeed invested in

---

3 Public Accounts Committee (2013) - Progress in delivering NHS efficiency savings, uncorrected transcript of oral evidence
4 Health Select Committee (2013) - Urgent and emergency services, second Report of session 2013–14
5 Further information about the Finance Member Reference Group can be found at http://www.nhsconfed.org/finance
reducing avoidable admissions." - NHS Business Manager, independent provider

"It is important that policy makers and future decisions on this issue are flexible to allow a differential approach for Trusts who need to expand non elective services." - Director of Finance, tertiary trust

What we said
In the NHS Confederation response to the call for evidence, we reiterated what we had heard.\(^6\) Our response recognised three important intentions of the marginal rate that were welcomed and we argued for these not to be lost in any reforms:

- **It acknowledges the significant challenges in urgent and emergency care**
  - Recent attention on the pressures to deliver effective urgent and emergency care echo what we and our members have been saying for a while. Problems at A&E departments indicate an inability for the service to manage the flow of patients across and between organisations, which needs to be addressed as a priority.

- **It identifies demand management strategies outside of the hospital as the main solution to dealing with this challenge**
  - There is an imbalance in the investment of primary, community and social care, compared to hospital care. We need to develop services outside of the hospital to help reduce demand at the front door of A&E and to improve discharge out of the back door, which will free up the capacity needed in hospitals to deal with the increased acuity of patients.

- **It creates a mechanism for resources to be shifted and investments to be made in community care**
  - One of the main challenges in managing demand out of hospitals is finding the resources to invest in community-based schemes. In a no-growth health funding environment, the only real way to make investments is to shift resources so as to deliver greater value from the funding available. The marginal rate not only creates a mechanism to do this, but does it in a way that should encourage the whole system to work collaboratively in devising solutions.

However, the response also identified that despite these good intentions our members were reporting that the implementation of the marginal rate for emergency admissions had realised limited benefits. In particular, we highlighted three main limitations in its application:

- **Lack of transparency** - The way that the funds from the marginal rate have been collected and reinvested hasn't been clear. Many of our members

\(^6\) NHS Confederation (2013) - *Response to the emergency admissions marginal rate review*
express scepticism as to the reallocation of funds and have concerns about the lack of involvement that local commissioners and all types of providers have had up to now.

- **Patchy impact on demand** - There are examples where demand management strategies funded by the marginal rate have delivered benefits to patients and the local community. However, the impact across England has so far been varied and emergency admissions have continued to grow at a national level.

- **It can only deal with a specific part of the system** - The relationship between the acute sector and community care is a vital part of the solution to challenges in urgent and emergency. However, the capacity of both primary and social care will also have an impact. The latter in particular has been limited by significant cuts in local government funding that has seen the provision of adult social services restricted, which may diminish the impact of NHS-funded interventions.

### Urgent and emergency care meeting

We hosted a meeting with Monitor and NHS England in August that brought together our members from across the system to discuss the review and share their views directly. The meeting was held as part of the NHS Confederation's new Urgent and Emergency Care Forum, which has been developed for our members who share a mutual interest in emergency care. Participants at the meeting came from acute, community, mental health and ambulance providers, as well as CCGs and CSUs.7

The meeting highlighted the system-wide perspective that forms the NHS Confederation’s position on the marginal rate. We demonstrated to Monitor and NHS England that there was a real opportunity to use the marginal rate as an agent for change, by allowing local solutions to meet local challenges. It also highlighted to the regulators the desire in the NHS for them to undertake a descriptive approach to pricing, indicating what works and what doesn't, rather than prescribing exactly how organisations should behave.

### A&E briefing

In September, the NHS Confederation published a briefing that aimed to debunk some of the myths around A&E care more broadly and provided a snapshot of what our members were experiencing across the country.8 The findings were based on a survey of 125 senior NHS leaders and an analysis of national data. Respondents to the survey included NHS chief executives, commissioners, chairs, medical directors and chief nursing officers.

---

7 Further information about all our forums can be found at: http://www.nhsconfed.org/Networks/Pages/Networks-and-sectors.aspx
8 NHS Confederation (2013) - Emergency care: an accident waiting to happen?
The report highlights the concerns our members have about the way in which NHS organisations are paid for their urgent and emergency care activity. It offers a solution that focuses on trying to use the marginal rate to achieve the outcomes we want. Ultimately, the report concludes by calling for a payment system that helps to encourage better joint working, more focus on intervention and greater investment in community services, all of which would relieve A&E pressures.

Our impact
Monitor and NHS England have now published the findings from their review into the marginal rate for emergency admissions. It found, as we did, that more needed to be done to make the rate transparent, clear and effective. It agreed with us on the potential for it to be reformed to facilitate joint working and a whole system approach to urgent and emergency care.

They propose to maintain the marginal rate rule and update it in two respects:

- require the baseline value above which the 30 per cent marginal rate applies be adjusted where evidence suggested there have been material changes in patient flows.

- place an additional requirement on commissioners to demonstrate how the retained funds are used to ensure plan are evidence-based, transparent and effective.

Conclusions
We are pleased that Monitor and NHS England have listened to and acted upon the concerns of our members. The proposals in the 2014/15 National Tariff consultation document are a step in the right direction.

They are unlikely on their own however to be enough. Rules can provide the incentive to collaborate, but it is important for providers and commissioners to take up the task of having grown up conversations about their local challenges. We will continue to encourage these conversations and will be alive to any concerns from our members about how the proposed changes are being implemented.

If you have any comments you would like to let us know, or if you are interested in any of the work identified in the paper, please contact Paul Healy at paul.healy@nhsconfed.org.

If you would like to be involved in the NHS Confederation's work on this issue in the future, in particular by taking part in our groups and forums, please contact Chiara Vivaldi at chiara.vivaldi@nhsconfed.org.

Further reading