
STATUTORY INSTRUMENTS

2013 No. 1617

The National Health Service (Direct Payments) Regulations 2013

PART 2

Direct Payments

Conditions to be complied with by the patient, representative or nominee

- 11.**—(1) A patient, representative or nominee must—
- (a) use the direct payments to procure services specified in the care plan;
 - (b) only use the direct payments in accordance with the patient’s care plan, in particular, to secure the provision of the whole of the services specified in the care plan.
- (2) A patient, representative or nominee must make enquiries before securing services from a provider—
- (a) to ascertain that the provider—
 - (i) if carrying on a regulated activity, is registered as a service provider in respect of that activity with the Care Quality Commission⁽¹⁾,
 - (ii) has complied with any obligation that the provider has to be registered as a member of a profession regulated by a body mentioned in section 25(3) of the 2002 Act (the Professional Standards Authority for Health and Social Care)⁽²⁾; and
 - (b) with a view to ascertaining whether the provider must operate under insurance or indemnity cover, and if so whether the insurance or indemnity cover under which the provider operates is—
 - (i) proportionate to the risks involved in providing the service, and
 - (ii) otherwise appropriate in relation to the services provided to the patient.
- (3) If a patient, representative or nominee requests a health body to be responsible in place of that person for ensuring that the enquiries mentioned in paragraph (2)(a) or (b) have been carried out in respect of any particular provider of services, the health body must make the enquiries mentioned.
- (4) A patient, representative or nominee must on request, or at intervals specified by a health body, provide the health body with information or evidence relating to—
- (a) the state of health or any condition of the patient in respect of which the direct payment is made; or
 - (b) the health outcomes expected from the provision of any service.

(1) The Care Quality Commission (CQC) was established by section 1(1) of the 2008 Act and regulates all health and adult social care services in England, including those provided by the NHS, local authorities, private companies and voluntary organisations.

(2) Section 25(3) of the 2002 Act has been amended by S.I. 2010/231; section 127 of, and paragraphs 17(1) and (2) of Schedule 10 to, the 2008 Act, and by section 230(1) of, and paragraph 56(b) of Schedule 15 to, the 2012 Act.

(5) If the patient, representative or nominee considers that it is reasonable to do so, the patient, representative or nominee must notify the health body when the state of health or other relevant circumstances of the patient change substantially.

(6) A patient, representative or nominee must ensure that the account approved by a health body into which direct payments are paid is—

- (a) used only for the purposes of securing services by means of—
 - (i) direct payments under these Regulations,
 - (ii) direct payments to secure relevant services for social care,
 - (iii) payments made by the Independent Living Fund (2006), or
 - (iv) other payments to secure relevant services for a disabled person; and
- (b) accessible only by named persons approved by a health body.

(7) A patient, representative or nominee must, on request, or at intervals specified by a health body provide the health body with information or evidence relating to—

- (a) the account mentioned in paragraph (6); or
- (b) the services secured by means of the direct payments.

(8) A health body may impose on a patient, representative or nominee either or both of the following conditions in connection with the making of a direct payment, that—

- (a) the recipient, whether the patient, or the representative or nominee in respect of the patient, must not secure a service from a particular person; or
- (b) the patient, the representative or the nominee must provide information that the health body considers necessary as described at paragraph (5) or (7) or regulation 7(2)(b), (4)(a) or (6)(c) (information that a health body may require a patient, representative or nominee to provide in making a decision as to a direct payment).

(9) If the information or evidence requested from a person referred to in paragraph (8) is within the control of another person referred to in that paragraph from whom that information may be requested, then it must be provided by that other person.

(10) Paragraphs (6) and (7)(a) do not apply where a patient is in receipt of a one-off direct payment.

(11) Where a health body is satisfied that a one-off direct payment is appropriate in the circumstances of an individual case, that payment may be made into the personal bank account of the patient or that of the patient's representative or nominee.