
STATUTORY INSTRUMENTS

2013 No. 1617

The National Health Service (Direct
Payments) Regulations 2013

PART 2

Direct Payments

Stopping direct payments

- 17.—(1) A health body must stop making direct payments—
- (a) in the case of a patient, other than a child, who has capacity to consent to the making of direct payments, when the patient does not, or has withdrawn, consent to the making of the payments;
 - (b) in the case of a child or a patient who lacks capacity to consent to the making of direct payments, when a representative has withdrawn consent to the making of the payments and there is no other representative who consents pursuant to regulation 4(1)(c) or 5(1)(c); and
 - (c) in the circumstances mentioned in regulation 4(4)(b) or 5(8)(b) (withdrawal of consent in relation to the making of a direct payment).
- (2) A health body may stop making direct payments if satisfied that it is appropriate to do so and in particular if—
- (a) a person in respect of whom a direct payment is made is not a patient;
 - (b) the health body does not consider that the representative or nominee is a suitable person to receive direct payments in respect of the patient;
 - (c) the nominee does not agree to receive the direct payments in respect of the patient;
 - (d) the person who has nominated the nominee pursuant to regulation 6(1) (nominated person) has withdrawn the nomination;
 - (e) the direct payments have been used otherwise than for a service specified in the care plan;
 - (f) the health body considers that theft, fraud or another offence may have occurred in connection with the direct payments;
 - (g) the health body considers that the health needs of the patient cannot be, or are not being, met by services secured by means of direct payments; or
 - (h) the patient has died.
- (3) Where a health body decides under paragraph (1) or (2) to stop making direct payments, the health body must give reasonable notice in writing to the patient and any representative or nominee, stating reasons for the decision.
- (4) In the case of a patient who has died, the notice mentioned in paragraph (3) must be given to the personal representatives of the patient.

(5) On receipt of a notice under paragraph (3), a patient, personal representative, representative or nominee may require a health body to re-consider the decision, and may provide evidence or relevant information for the health body to consider as part of that deliberation.

(6) A health body must inform the patient and any personal representatives, representative or nominee in writing of the decision on a re-consideration, stating the reasons for the decision.

(7) A health body may not be required to undertake more than one re-consideration following a decision under paragraph (1) or (2).

(8) A health body may stop making direct payments following reasonable notice even though a decision under paragraph (1) or (2) is being re-considered.

(9) Any right or liability of the patient, personal representatives, representative or nominee in respect of or to a third party, acquired or incurred in respect of a service secured by means of a direct payment, shall transfer to a health body when the health body stops making direct payments pursuant to paragraph (1) or (2).

(10) The transfer of any liability under paragraph (9) is binding on the third party, even though, apart from this paragraph, it would have required the consent or concurrence of that party.