



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 1

#### THE HEALTH SERVICE IN ENGLAND

##### *Further provision about clinical commissioning groups*

#### **27 Financial arrangements for clinical commissioning groups**

After section 223F of the National Health Service Act 2006 insert—

##### *“Clinical commissioning groups*

##### **223G Means of meeting expenditure of clinical commissioning groups out of public funds**

- (1) The Board must pay in respect of each financial year to each clinical commissioning group sums not exceeding the amount allotted for that year by the Board to the group towards meeting the expenditure of the group which is attributable to the performance by it of its functions in that year.
- (2) In determining the amount to be allotted to a clinical commissioning group for any year, the Board may take into account—
  - (a) the expenditure of the clinical commissioning group during any previous financial year, and
  - (b) the amount that it proposes to hold, during the year to which the allotment relates, in any contingency fund established under section 223F.
- (3) An amount is allotted to a clinical commissioning group for a year under this section when the group is notified in writing by the Board that the amount is allotted to it for that year.

*Status: Point in time view as at 01/04/2013.*

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- (4) The Board may make a new allotment under this section increasing or reducing an allotment previously so made.
- (5) Where the Board allots an amount to a clinical commissioning group or makes a new allotment under subsection (4), it must notify the Secretary of State.
- (6) The Board may give directions to a clinical commissioning group with respect to—
  - (a) the application of sums paid to it by virtue of a new allotment increasing an allotment previously so made, and
  - (b) the payment of sums by it to the Board in respect of charges or other sums referable to the valuation or disposal of assets.
- (7) Sums falling to be paid to clinical commissioning groups under this section are payable subject to such conditions as to records, certificates or otherwise as the Board may determine.
- (8) In this section and sections 223H to 223K “financial year” includes the period which begins on the day the clinical commissioning group is established and ends on the following 31 March.

#### **223H Financial duties of clinical commissioning groups: expenditure**

- (1) Each clinical commissioning group must, in respect of each financial year, perform its functions so as to ensure that its expenditure which is attributable to the performance by it of its functions in that year does not exceed the aggregate of—
  - (a) the amount allotted to it for that year under section 223G,
  - (b) any sums received by it in that year under any provision of this Act (other than sums received by it under section 223G), and
  - (c) any sums received by it in that year otherwise than under this Act for the purpose of enabling it to defray such expenditure.
- (2) The Board may by directions determine—
  - (a) whether specified sums must, or must not, be treated for the purposes of this section as received by a specified clinical commissioning group,
  - (b) whether specified expenditure must, or must not, be treated for those purposes as expenditure within subsection (1) of a specified clinical commissioning group, or
  - (c) the extent to which, and the circumstances in which, sums received by a clinical commissioning group under section 223G but not yet spent must be treated for the purposes of this section as part of the expenditure of the group, and to which financial year's expenditure they must be attributed.
- (3) The Secretary of State may by directions require a clinical commissioning group to use specified banking facilities for any specified purposes.
- (4) In this section, “specified” means specified in the directions.

#### **223I Financial duties of clinical commissioning groups: use of resources**

- (1) For the purposes of this section and section 223J—

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- (a) a clinical commissioning group's capital resource use, in relation to a financial year, means the group's use of capital resources in that year, and
  - (b) a clinical commissioning group's revenue resource use, in relation to a financial year, means the group's use of revenue resources in that year.
- (2) A clinical commissioning group must ensure that its capital resource use in a financial year does not exceed the amount specified by direction of the Board.
- (3) A clinical commissioning group must ensure that its revenue resource use in a financial year does not exceed the amount specified by direction of the Board.
- (4) Any directions given in relation to a financial year under subsection (6) of section 223D apply (in relation to that year) for the purposes of this section as they apply for the purposes of that section.
- (5) The Board may by directions make provision for determining to which clinical commissioning group a use of capital resources or revenue resources is to be attributed for the purposes of this section or section 223J.
- (6) Where the Board gives a direction under subsection (2) or (3), it must notify the Secretary of State.

#### **223J Financial duties of clinical commissioning groups: additional controls on resource use**

- (1) The Board may direct a clinical commissioning group to ensure that its capital resource use in a financial year which is attributable to matters specified in the direction does not exceed an amount so specified.
- (2) The Board may direct a clinical commissioning group to ensure that its revenue resource use in a financial year which is attributable to matters specified in the direction does not exceed an amount so specified.
- (3) The Board may direct a clinical commissioning group to ensure that its revenue resource use in a financial year which is attributable to prescribed matters relating to administration does not exceed an amount specified in the direction.
- (4) The Board may give directions, in relation to a financial year, specifying uses of capital resources or revenue resources which must, or must not, be taken into account for the purposes of subsection (1) or (as the case may be) subsection (2) or (3).
- (5) The Board may not exercise the power conferred by subsection (1) or (2) in relation to particular matters unless the Secretary of State has given a direction in relation to those matters under subsection (1) of section 223E or (as the case may be) subsection (2) of that section.
- (6) The Board may not exercise the power conferred by subsection (3) in relation to prescribed matters relating to administration unless the Secretary of State has given a direction in relation to those matters under subsection (3)(a) of section 223E.

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### **223K Payments in respect of quality**

- (1) The Board may, after the end of a financial year, make a payment to a clinical commissioning group.
- (2) For the purpose of determining whether to make a payment under subsection (1) and (if so) the amount of the payment, the Board must take into account at least one of the following factors—
  - (a) the quality of relevant services provided during the financial year;
  - (b) any improvement in the quality of relevant services provided during that year (in comparison to the quality of relevant services provided during previous financial years);
  - (c) the outcomes identified during the financial year as having been achieved from the provision at any time of relevant services;
  - (d) any improvement in the outcomes identified during that financial year as having been so achieved (in comparison to the outcomes identified during previous financial years as having been so achieved).
- (3) For that purpose, the Board may also take into account either or both of the following factors—
  - (a) relevant inequalities identified during that year;
  - (b) any reduction in relevant inequalities identified during that year (in comparison to relevant inequalities identified during previous financial years).
- (4) Regulations may make provision as to the principles or other matters that the Board must or may take into account in assessing any factor mentioned in subsection (2) or (3).
- (5) Regulations may provide that, in prescribed circumstances, the Board may, if it considers it appropriate to do so—
  - (a) not make a payment that would otherwise be made to a clinical commissioning group under subsection (1), or
  - (b) reduce the amount of such a payment.
- (6) Regulations may make provision as to how payments under subsection (1) may be spent (which may include provision as to circumstances in which the whole or part of any such payments may be distributed to members of the clinical commissioning group).
- (7) A clinical commissioning group must publish an explanation of how the group has spent any payment made to it under subsection (1).
- (8) In this section—
 

“relevant services” means services provided in pursuance of arrangements made by the clinical commissioning group—

  - (a) under section 3 or 3A or Schedule 1, or
  - (b) by virtue of section 7A;

“relevant inequalities” means inequalities between the persons for whose benefit relevant services are at any time provided with respect to—

  - (a) their ability to access the services, or

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(b) the outcomes achieved for them by their provision.”

**Commencement Information**

- I1** S. 27 partly in force; s. 27 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- I2** S. 27 in force at 1.10.2012 for specified purposes by [S.I. 2012/1831](#), [art. 2\(2\)](#)
- I3** S. 27 in force at 1.4.2013 in so far as not already in force by [S.I. 2013/160](#), [art. 2\(2\)](#) (with [arts. 7-9](#))

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