



# Community Care (Delayed Discharges etc.) Act 2003

## 2003 CHAPTER 5

### PART 1

#### DELAYED DISCHARGE PAYMENTS

##### *Delayed discharge payments*

#### **6 Liability to make delayed discharge payments**

- (1) This section applies where notice of a patient's case under section 2 and notice of the proposed discharge day under section 5(3) have both been given (and are in force).
- (2) If by the end of the relevant day—
  - (a) the patient has not been discharged and the responsible authority has not complied with its duties under section 4(2); or
  - (b) it has not been possible to discharge the patient because, and only because, either of the conditions in subsection (3) is satisfied (or both are satisfied),the responsible authority must make a payment of the amount prescribed in regulations for each day of the delayed discharge period.
- (3) The conditions referred to in subsection (2) are that—
  - (a) the responsible authority has not made available for the patient a community care service which it decided under section 4(2)(b) to make available for him;
  - (b) the responsible authority has not made available for the patient's carer a service which it decided under section 4(3)(b) to make available to the carer.
- (4) For this purpose "the delayed discharge period" is, subject to subsections (5) and (7), the period—
  - (a) beginning with the day after the relevant day, and
  - (b) ending with the day on which the patient is discharged.

- (5) If on any day before that on which the patient is discharged the responsible authority gives notice to the responsible NHS body that—
- (a) it has complied with its duties under section 4(2),
  - (b) every community care service that it decided under section 4(2)(b) to make available has been made available for the patient, and
  - (c) every service that it decided under section 4(3)(b) to make available to a carer has been made available,
- the delayed discharge period ends with that day.
- (6) The references in subsections (3) and (5) to services “decided under” section 4(2)(b) or (3)(b) are, in a case where the decision in question has been altered under section 4(7), to any services specified in the altered decision.
- (7) Regulations may—
- (a) require days after the relevant day not to be treated as days of the delayed discharge period;
  - (b) prescribe circumstances (other than those mentioned in subsections (4) and (5)) in which the delayed discharge period ends;
  - (c) make provision for determining the day on which a patient is discharged (including provision prescribing circumstances in which a patient is to be treated for the purposes of this section as having been discharged on a day other than that on which he was in fact discharged).

## **7 Delayed discharge payments: supplementary**

- (1) In prescribing an amount under section 6(2) the appropriate Minister must have regard (among other things) to either or both of the following matters—
- (a) costs to NHS bodies of providing accommodation and personal care to patients who are ready to be discharged; and
  - (b) costs to social services authorities of providing community care services to, and services to carers in relation to, persons who have been discharged.
- (2) Any payment which the responsible authority is required to make under section 6 in relation to qualifying hospital patient shall, subject to subsection (3), be made to the responsible NHS body.
- (3) In cases of any description prescribed in regulations the payment shall be made to the person prescribed in relation to cases of that description.