
STATUTORY INSTRUMENTS

2013 No. 1617

**The National Health Service (Direct
Payments) Regulations 2013**

PART 2

Direct Payments

Care plan and care co-ordinator

- 8.—**(1) Before a health body may make a direct payment, the health body must—
- (a) prepare a care plan in respect of the services to be secured for a patient by way of direct payments;
 - (b) advise the patient, representative or nominee of significant potential risks arising in relation to the making of direct payments in respect of the patient, the potential consequences of the risks and any proportionate means of mitigating the risks;
 - (c) agree with the patient, representative or nominee the procedure for managing any significant potential risk, and include the agreed procedure in the care plan; and
 - (d) be satisfied—
 - (i) that the health needs identified in the care plan of the patient can be met by the services specified in the care plan, and
 - (ii) that the amount represented by the direct payments will be sufficient to provide for the full cost of each of the services specified in the care plan.
- (2) The risks mentioned in paragraph (1)(b) may in particular include—
- (a) risks to the patient's health;
 - (b) medical or surgical risk arising from the procurement of a particular type of service;
 - (c) risks arising from the employment relationship where direct payments are used to secure services from an employee;
 - (d) risks arising from a provider of services secured by means of direct payments operating under an inadequate or no procedure for the investigation of complaints arising from the provision of the services;
 - (e) risks arising from a provider of services secured by means of direct payments operating under inadequate or no insurance or indemnity cover for the services to be provided; or
 - (f) a risk that monies paid by way of a direct payment may go missing, be misused or be subject to fraud.
- (3) A health body must nominate a care co-ordinator who is to be responsible for the following functions in respect of the patient—
- (a) managing the assessment of the health needs of the patient for the care plan;
 - (b) ensuring that the patient or their representative has agreed to the matters listed in paragraph (7);

- (c) monitoring or arranging for the monitoring of—
 - (i) the making of direct payments, and
 - (ii) the health conditions of the patient in respect of which the direct payments are made;
 - (d) arranging for review of the direct payments; and
 - (e) liaising between the patient or the representative or nominee and the health body in relation to the direct payments.
- (4) A health body must in the care plan specify—
- (a) the health needs to be met by services secured by means of direct payments, and the health outcomes intended to be achieved through the provision of the services;
 - (b) the services to be secured by means of direct payments that the health body considers necessary to meet the health needs of the patient;
 - (c) the amount to be paid by way direct payments, and the intervals at which monies are to be paid;
 - (d) the name of the person who is the care co-ordinator in respect of the patient;
 - (e) who is to be responsible for monitoring each health condition of the patient in respect of which direct payments may be made;
 - (f) the anticipated date of the first review mentioned in regulation 14(2)(a) (monitoring and review of direct payments) and how it is intended to be carried out; and
 - (g) the period of notice that is to apply if, following a review under regulation 14(2)(a), a health body decides to reduce the amount of the direct payments or to stop making the direct payments.
- (5) The services that may be secured by means of direct payments exclude services—
- (a) arranged or provided under sections 83 (primary medical services)(1), 84 (general medical services contracts)(2) or 92 (arrangements by the Board for the provision of primary medical services)(3) of the 2006 Act;
 - (b) in respect of which a charge is otherwise payable by virtue of sections 172 (charges for drugs, medicines or appliances, or pharmaceutical services), 176 (dental charging)(4) or 179 (charges for optical appliances) of the 2006 Act;
 - (c) planned surgical procedures;
 - (d) providing vaccination, immunisation or screening, including population-wide immunisation programmes;
 - (e) provided under the National Child Measurement Programme(5);
 - (f) provided as part of an NHS Health Check(6);
 - (g) which consist of the supply or procurement of alcohol or tobacco;
 - (h) which consist of the provision of gambling services or facilities; or
 - (i) to repay a debt otherwise than in respect of a service specified in the care plan.

(1) Section 83 has been amended by section 55(1) of, and paragraph 30 of Schedule 4 to, the 2012 Act.

(2) Section 84 has been amended by section 55(1) of, and paragraph 31 of Schedule 4 to, the 2012 Act.

(3) Section 92 has been amended by section 55(1) of, and paragraph 36 of Schedule 4 to, the 2012 Act.

(4) Section 176 has been amended by section 55(1) of, and paragraph 94 of Schedule 4 to, the 2012 Act.

(5) The National Child Measurement Programme weighs and measures children at primary school. The information is used by the NHS to plan and provide better health services for children and is the responsibility of Local Government. See <https://www.gov.uk/government/news/national-child-measurement-programme-briefing-is-launched>.

(6) The NHS Health Check programme aims to help prevent heart disease, stroke, diabetes, kidney disease and certain types of dementia. See <http://www.healthcheck.nhs.uk/>.

(6) If a health body has considered including a particular service in the care plan as a service to be secured by means of direct payments but decides not to include that service—

- (a) the patient, representative or nominee may request the health body to inform them of the reason for the decision; and
- (b) the health body must inform them of the reason for the decision.

(7) Before a health body may make a direct payment, the patient or their representative must agree—

- (a) that the patient's specified health needs can be met by the services specified in the care plan;
- (b) that the amount of the direct payments is sufficient to provide for the full cost of each of the services specified in the care plan; and
- (c) that the patient's requirements may be reviewed in accordance with regulation 14(2).