
WELSH STATUTORY INSTRUMENTS

2011 No. 963

The Social Care Charges (Direct Payments) (Means Assessment and Determination of Reimbursement or Contribution) (Wales) Regulations 2011

Invitation to request a means assessment

7.—(1) A local authority must issue an invitation to D to request an assessment of his or her means in accordance with regulation 13—

- (a) if it is reasonably practicable to do so, when the authority offers to make a direct payment to D, or where relevant, to a suitable person;
- (b) if it has not been reasonably practicable to give an invitation as mentioned in sub-paragraph (a), as soon as reasonably practicable after the offer was made;
- (c) if an invitation has not been given under sub-paragraph (a) or (b) prior to the making of the first direct payment to D, or where relevant, to a suitable person, as soon as reasonably practicable after the first direct payment is made.

(2) If a local authority reasonably considers that one or more of the conditions set out in paragraph (3) applies, it must invite D to request a new assessment of his or her means in accordance with regulations 13 and 16 with a view to its making a further determination of D's ability to make a payment in accordance with regulation 17.

(3) The conditions referred to in paragraph (2) are—

- (a) there is an increase, or proposed increase, in the amount of the payment which D is required to make as a result in a change to the local authority's charging policy;
- (b) there is a change in D's financial circumstances;
- (c) there has been a change in the cost of providing a service for which D has been assessed as needing; or
- (d) a mistake was made when a determination was made in accordance with regulation 17.

(4) Where a local authority is required by paragraph (1), or determines in accordance with paragraph (2), to issue an invitation to D or, where relevant, to a suitable person, to request an assessment of D's means in accordance with regulations 13 and 16, it must ensure that the invitation contains full details of—

- (a) the services which D has been assessed as requiring and for which a direct payment is being considered;
- (b) its charging policy, which must include the following—
 - (i) its policy in relation to which, if any, of the services for which a direct payment may be provided D may be required to make a payment of an amount towards the cost of securing those services,
 - (ii) details of the standard amount which D may be required to pay towards the cost of securing any such service,

- (iii) details of any service which the local authority secures or provides and for which it may require a service user to pay a charge in accordance with section 1(1) of the Measure (general power to charge for care services),
 - (iv) details of any service for which the local authority requires a service user to pay a flat-rate charge, and
 - (v) details of the maximum reasonable amount which may be required or sought in accordance with regulation 5, or the maximum reasonable amount that the local authority applies, where that amount is lower;
- (c) its means assessment process;
 - (d) the information and documentation that D or, where relevant, a suitable person, is required to provide in order that an assessment of D's means can be undertaken;
 - (e) the time, as specified in regulation 8, within which D or, where relevant, a suitable person, is required to supply the information and documentation referred to in sub-paragraph (d);
 - (f) the format in which it will accept the information and documentation referred to in sub-paragraph (d);
 - (g) any home visiting facility that it provides within its area;
 - (h) the consequences of failing to respond to the invitation in accordance with sub-paragraph (e);
 - (i) the named individuals within the authority whom D or, where relevant, a suitable person, should contact should that person require additional information or assistance in respect of any of the processes attendant upon the issue of the invitation;
 - (j) the right of D or, where relevant, a suitable person, right to appoint a third party to assist, or to act on his or her behalf, in respect of all or part of the means assessment process; and
 - (k) the contact details of any organisation in its area which provides support or assistance of the type referred to in sub-paragraph (j).
- (5) A local authority must provide D or, where appropriate, a suitable person with the information referred to in paragraph (1) in writing, or in any other format that is appropriate to the communication needs of that person⁽¹⁾.

⁽¹⁾ For an explanation of the meaning of “*any format appropriate to the communication needs of that person*”, please refer to the guidance published by the Welsh Ministers, entitled *Introducing More Consistency in Local Authority Charging for Non-Residential Social Services*.