
STATUTORY INSTRUMENTS

2010 No. 1000

**The National Health Service (Direct
Payments) Regulations 2010**

PART 2

Pilot Schemes

Secretary of State's power to make a pilot scheme

2.—(1) The Secretary of State may make pilot schemes in accordance with which direct payments may be made.

(2) The Secretary of State may make a pilot scheme only in response to a pilot proposal made in accordance with regulation 3.

(3) If a pilot proposal is submitted to the Secretary of State, the Secretary of State may make a pilot scheme—

- (a) in accordance with the terms of the pilot proposal; or
- (b) with provisions which differ from the terms of the pilot proposal, but which the Secretary of State considers appropriate in the interests of the health service⁽¹⁾.

(4) The pilot scheme made by the Secretary of State may include, as respects payments to which the scheme applies, any provision within section 12B(2) of the National Health Service Act 2006 (regulations about direct payments).

(5) The Secretary of State may not make a pilot scheme for the whole of England.

(6) Where the Secretary of State has made a pilot scheme, the Secretary of State may direct⁽²⁾ a pilot PCT to exercise—

- (a) his powers to make a direct payment⁽³⁾ in accordance with that scheme; and
- (b) his functions in relation to the making of payments under that scheme under the following provisions—
 - (i) regulation 8(4) and (6) to (8),
 - (ii) regulation 9(1)(c), (4)(b) and (5),
 - (iii) regulations 10 to 13,
 - (iv) regulation 14(3), (5), (8) and (9),
 - (v) regulation 15(c), and
 - (vi) regulations 16 to 20.

(1) See section 275 of the NHS Act for the definition of “health service”.

(2) See section 7 of the NHS Act. By virtue of section 273(4)(e)(i) a direction by the Secretary of State under section 7 must be given by regulations or an instrument in writing.

(3) See section 12A(1) of the NHS Act.

(7) Where the Secretary of State has made a pilot scheme which includes provision for the making of direct payments for the purpose of securing the provision of after-care services, the pilot PCT may make direct payments in accordance with these Regulations.

Pilot proposal for direct payments for health care

3.—(1) A Primary Care Trust which seeks to become a pilot PCT must make a pilot proposal and submit it to the Secretary of State.

(2) A pilot proposal must specify—

- (a) the name of the proposed pilot PCT;
- (b) if there is more than one proposed pilot PCT, the name of the proposed pilot PCT which is to be principally responsible for the operation of the proposed pilot scheme;
- (c) the geographical area in respect of which the proposed pilot scheme will operate;
- (d) the health needs in respect of which services to patients may be secured by means of direct payments made in accordance with the proposed pilot scheme;
- (e) whether the proposed pilot PCT intends to secure the provision of after-care services under the proposed pilot scheme;
- (f) the other criteria by which patients who may benefit under the proposed pilot scheme may be identified;
- (g) the period for which the proposed pilot scheme is to have effect; and
- (h) any other provisions to be included in the proposed pilot scheme.

(3) The period mentioned in paragraph (2)(g) must not exceed three years.

(4) A Primary Care Trust making a pilot proposal must ensure that the proposals for the provisions to be included in the proposed pilot scheme, as respects the making of direct payments, are compatible with the requirements of regulations 7 to 20.

Secretary of State's powers in relation to a pilot scheme

4.—(1) The Secretary of State may at any time amend a pilot scheme by a notice in writing to the pilot PCT if he considers that the amendment is appropriate in the interests of the health service.

(2) An amendment under paragraph (1) may include—

- (a) an extension of the period for which a pilot scheme has effect, but the maximum period for which the pilot scheme has effect must not exceed five years; or
- (b) an additional restriction or obligation imposed on the pilot PCT in relation to the pilot scheme.

(3) The Secretary of State may require a pilot PCT to notify the Secretary of State in writing of the intended arrangements to provide for continuity of care for patients on expiry of the pilot scheme, including—

- (a) arrangements for services to be procured for a patient by means of a direct payment under another pilot scheme; or
- (b) arrangements to continue to provide services to a patient by means other than by a direct payment.

(4) The Secretary of State may at any time revoke a pilot scheme by notice in writing to the pilot PCT if he considers that revocation is appropriate in the interests of the health service.

Review of pilot schemes

5.—(1) The Secretary of State must in relation to each pilot scheme—

- (a) arrange for a person independent of the Secretary of State to review the pilot scheme; or
- (b) require a pilot PCT to arrange for a person not employed or otherwise engaged by the pilot PCT or the Secretary of State to review the pilot scheme of the pilot PCT.

(2) Arrangements under paragraph (1) may provide for the person to conduct a review of a pilot scheme in conjunction with a review of one or more other pilot schemes.

(3) A review may be commenced at any time but must be completed within a reasonable time following the expiry of the period for which the pilot scheme is to have effect.

(4) The findings of a review must be published by the Secretary of State on completion of the review.

(5) The Secretary of State or pilot PCT may require that the following matters are considered as part of a review of a pilot scheme—

- (a) the effect of direct payments on the health, well-being and satisfaction of—
 - (i) patients,
 - (ii) representatives,
 - (iii) nominees,
 - (iv) persons with parental responsibility for a child,
 - (v) persons who principally care for a child, and
 - (vi) carers who normally provide unpaid care for a member of the carer's family or a friend;
- (b) substantial differences in relation to the use of direct payments for, by or in respect of patients, or the effect on the health, well-being or satisfaction of patients, who vary one from another in—
 - (i) socio-economic background,
 - (ii) age,
 - (iii) gender,
 - (iv) ethnicity,
 - (v) disability, or
 - (vi) health needs;
- (c) the effect of direct payments on the cost-effectiveness of care received by patients;
- (d) the effect of direct payments on the provision of services to persons for whom no direct payment has been made with similar health needs to those of patients for whom direct payments have been made;
- (e) the effect of direct payments on the satisfaction, development of skills and knowledge or on the workload of—
 - (i) care workers who are paid to support a person with health needs with everyday tasks,
 - (ii) persons providing a service secured by a direct payment,
 - (iii) any other persons involved in the administration of direct payments under these Regulations, or
 - (iv) persons involved in the administration of a service secured by means of a direct payment;

- (f) the extent to which direct payments have led to innovation in the provision of health services within the meaning of section 14 of the Health Act 2009 (innovation prizes)⁽⁴⁾; and
 - (g) the administration, governance and management of direct payments within a pilot scheme.
- (6) Nothing in paragraph (5) shall prevent consideration in a review of matters not mentioned in that paragraph.
- (7) A pilot PCT must—
- (a) at the request of the person reviewing a pilot scheme, provide information which may reasonably be required for the purposes of the review; and
 - (b) co-operate with the person who is reviewing the pilot scheme.
- (8) Information provided by a pilot PCT under paragraph (7)(a) must be accurate, and provided within a reasonable time of receipt of the request by the pilot PCT.

(4) 2009 c. 21.