
STATUTORY INSTRUMENTS

2010 No. 1000

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

PART 3

Direct Payments

Conditions to be complied with by the patient, representative or nominee

- 14.**—(1) A patient, representative or nominee must—
- (a) use the direct payments to procure services specified in the care plan;
 - (b) only use the direct payments in accordance with the patient’s care plan, in particular, to secure the provision of the whole of a service specified in the care plan.
- (2) A patient, representative or nominee must make enquiries before securing services from a provider—
- (a) to ascertain that the provider—
 - (i) if carrying on a regulated activity, is registered as a service provider in respect of that activity with the Care Quality Commission,
 - (ii) has complied with any obligation that the provider has to be registered as a member of a profession regulated by a body mentioned in section 25(3) of the 2002 Act (the Council for Healthcare Regulatory Excellence)⁽¹⁾, and
 - (b) with a view to ascertaining whether the provider must operate under insurance or indemnity cover, and if so whether the insurance or indemnity cover under which the provider operates is—
 - (i) proportionate to the risks involved in providing the service, and
 - (ii) otherwise appropriate in relation to the services provided to the patient.
- (3) If a patient, representative or nominee requests that the Secretary of State or after-care PCT be responsible in place of that person for ensuring that the enquiries mentioned in paragraph (2)(a) or (b) have been carried out in respect of any particular provider of services, the Secretary of State or after-care PCT must make the enquiries mentioned.
- (4) A patient, representative or nominee may use direct payments to secure a service in respect of the patient from a person mentioned in regulation 10(6)(d) only if the care plan specifies, pursuant to regulation 11(6), that the service may be secured from that person.
- (5) A patient, representative or nominee must on request, or at intervals specified by the Secretary of State or after-care PCT, provide the Secretary of State or after-care PCT with information or evidence relating to—

(1) Section 25(3) of the 2002 Act has been amended by paragraphs 17(1) to (3) of Schedule 10 to the [Health and Social Care Act 2008 \(c. 14\)](#).

- (a) the state of health or any health condition of the patient in respect of which the direct payment is made; or
 - (b) the health outcomes expected from the provision of any service.
- (6) If the patient, representative or nominee considers that it is reasonable to do so, the patient, representative or nominee must notify the Secretary of State or after-care PCT when the state of health or other relevant circumstances of the patient change substantially.
- (7) A patient, representative or nominee must ensure that the account approved by the Secretary of State or after-care PCT into which direct payments are paid is—
- (a) used only for the purposes of securing services by means of—
 - (i) direct payments under these Regulations,
 - (ii) direct payments to secure relevant services for social care,
 - (iii) payments made by the Independent Living Fund (2006), or
 - (iv) other payments to secure relevant services for a disabled person; and
 - (b) accessible only by named persons approved by the Secretary of State or after-care PCT.
- (8) A patient, representative or nominee must, on request, or at intervals specified by the Secretary of State or after-care PCT provide the Secretary of State or after-care PCT with information or evidence relating to—
- (a) the account mentioned in paragraph (7); or
 - (b) the services secured by means of the direct payments.
- (9) The Secretary of State or an after-care PCT may impose on a patient, representative or nominee either or both of the following conditions in connection with the making of a direct payment, that—
- (a) the recipient, whether the patient, or the representative or nominee in respect of the patient, must not secure a service from a particular person; or
 - (b) the patient, the representative or the nominee must provide information that the Secretary of State or after-care PCT considers necessary other than as described at paragraph (5) or (8) or regulations 10(2)(b), (4)(a) or (6)(c).
- (10) If information or evidence requested from a person referred to in paragraph (8) is within the control of another person referred to in that paragraph then it must be provided by that other person.