
STATUTORY INSTRUMENTS

2013 No. 2891

**The National Health Service Commissioning Board
and Clinical Commissioning Groups (Responsibilities
and Standing Rules) (Amendment) Regulations 2013**

Amendments in relation to NHS Continuing Healthcare and NHS funded nursing care

2.—(1) In regulation 21 of the 2012 Regulations (duty of relevant bodies: assessment and provision of NHS Continuing Healthcare)—

(a) for paragraph (3), substitute—

“(3) If an assessment of a person’s need for NHS Continuing Healthcare is required under paragraph (2)(a), the relevant body must ensure that it is carried out before—

(a) any assessment pursuant to regulation 28(1) (persons who enter relevant premises or who develop a need for nursing care) is carried out in relation to that person; and

(b) any notice is given to a social services authority pursuant to section 2(2) of the Community Care (Delayed Discharges etc) Act 2003 (notice of patient’s likely need for community care services)⁽¹⁾ in relation to that person.”;

(b) after paragraph (7) insert—

“(7A) Paragraph (7B) applies where an NHS trust makes a recommendation to a relevant body that it should decide that a person is eligible for NHS Continuing Healthcare pursuant to direction 2(6) of the Delayed Discharges Directions.

(7B) Where this paragraph applies, the relevant body may decide that the person is eligible for NHS Continuing Healthcare in reliance on the recommendation of the NHS trust, and if it does so, paragraphs (2) to (6) do not apply.”;

(c) in paragraph (8), for “a Fast Track Pathway Tool”, substitute “the Fast Track Pathway Tool”;

(d) for paragraph (9) substitute—

“(9) A relevant body must decide that a person is eligible for NHS Continuing Healthcare upon receipt of—

(a) the Fast Track Pathway Tool completed in accordance with paragraph (8); or

(b) the recommendation of an NHS trust under direction 2(9) of the Delayed Discharges Directions that a person is eligible for NHS Continuing Healthcare, based on the Fast Track Pathway Tool completed in accordance with direction 2(8) of those Directions.”;

(e) for paragraph (10) substitute—

⁽¹⁾ 2003 c. 5. Section 2(2) imposes a duty on relevant bodies by virtue of section 1. Section 1 was amended so as to include relevant bodies by the Health and Social Care Act 2012 (Consequential Amendments) (No. 2) Order 2013 (S.I. 2013/2341). There are other amendments to section 1 not relevant to these Regulations.

“(10) Where a relevant body makes a decision about a person’s eligibility for NHS Continuing Healthcare, it must—

(a) notify the person (or someone lawfully acting on that person’s behalf), in writing, of the decision made about their eligibility for NHS Continuing Healthcare, the reasons for that decision and, where applicable, the matters referred to in paragraph (11); and

(b) make a record of that decision.”; and

(f) in paragraph (13)—

(i) in the definition of “appropriate clinician”, for “a Fast Track Pathway Tool”, substitute “the Fast Track Pathway Tool”;

(ii) after the definition of “appropriate clinician” insert—

““Delayed Discharges Directions” means the Delayed Discharges (Continuing Care) Directions 2013(2)

(iii) in the definition of “healthcare profession”, for “(whether or not that person is regulated by, or by virtue of, any enactment)”, substitute “(whether or not a person engaged in that profession is regulated by, or by virtue of, any enactment)”.

(2) In Schedule 5 (persons disqualified from being a chair, CCG member or social services authority member of a review panel), omit paragraph (2).

(2) The Directions can be found at: <https://www.gov.uk/government/publications/national-framework-for-nhs-continuing-healthcare-and-nhs-funded-nursing-care>. A hard copy may be obtained on request by writing to Anna Kershaw, 2E47 Quarry House, Quarry Hill, Leeds, LS2 7UE.