
STATUTORY INSTRUMENTS

2017 No. 219

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service (Direct Payments) (Amendment) Regulations 2017

<i>Made</i>	- - - -	<i>28th February 2017</i>
<i>Laid before Parliament</i>		<i>3rd March 2017</i>
<i>Coming into force</i>	- -	<i>1st April 2017</i>

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by section 12B of the National Health Service Act 2006 (1).

Citation and commencement

1. These Regulations may be cited as the National Health Service (Direct Payments) (Amendment) Regulations 2017 and come into force on 1st April 2017.

Amendment of the National Health Service (Direct Payments) Regulations 2013

2.—(1) The National Health Service (Direct Payments) Regulations 2013(2) are amended as follows.

(2) In regulation 8 (care plan and care co-ordinator)—

(a) in paragraph (5A) for the words from “person who” to “nominee,” substitute “connected person”;

(b) after paragraph (5A) insert—

“(5B) In paragraph (5A), “connected person” in relation to a patient means any of the following who lives in the same household as the patient whether or not the person is a nominee—

(a) a family member mentioned in regulation 7(8); or

(b) a friend of the patient.”.

(3) In regulation 10 (conditions applying to the making of direct payments by a health body)—

(1) 2006 c.41. Section 12B is inserted by section 11 of the Health Act 2009 (c.21) and amended by section 55(1) of, and paragraphs 10 and 11 of Schedule 4 to, the Health and Social Care Act 2012 (c.7). Powers exercised in making these Regulations are exercisable by the Secretary of State in relation to England only (see section 271(1)). See section 275(1) for the definition of “regulations”.

(2) S.I.2013/1617. Regulation 8(5A) is inserted by S.I.2013/2354.

- (a) in paragraph (1), after “satisfied” insert—
“—
(a) where the account is a managed account, that the requirements in paragraphs (2)(b) and (5) are met;
(b) in any other case,”;
- (b) after paragraph (1) insert—
“(1A) In paragraph (1)(a), “managed account” means an account held by a person or organisation where that person or organisation has been appointed by the patient, representative or nominee, both to hold the direct payment on the patient’s, representative’s or nominee’s behalf, and to apply that payment in accordance with the instructions of the patient, representative or nominee.”;
- (c) for paragraph (5)(b) substitute—
“(b) ensure that direct payments paid into it in respect of a patient will be used only for services agreed in that patient’s care plan.”.
- (4) At the beginning of regulation 11(6) (conditions to be complied with by the patient, representative or nominee) insert “Except in the case of a managed account as defined in regulation 10(1A),”.

Signed by authority of the Secretary of State for Health.

28th February 2017

David Mowat
Parliamentary Under-Secretary of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Direct Payments) Regulations 2013 (S.I.2013/1617).

Those Regulations make provision for the making of direct payments for health care to secure the provision of certain health services under the National Health Service Act 2006 (c.41) by a health body (a clinical commissioning group (“CCG”), the National Health Service Commissioning Board (“the Board”), a local authority or the Secretary of State), or in the case of a CCG or the Board, under any other enactment.

The amendments at regulation 2(2) ensure that a care plan may only provide for a family member or a friend who lives with the patient to provide a service to be funded by the direct payment if it is necessary to meet the patient’s needs or to promote the welfare of a child patient. This limitation currently applies to any family member or friend and to others living with the patient.

The amendments at regulation 2(3)(a) and (b) relate to direct payments which are paid into managed accounts (accounts held by persons or organisations appointed by the patient, representative or nominee, both to hold the direct payment on their behalf and to apply the payment in accordance with their instructions). Those amendments ensure that the strict conditions as to what the monies in the account may be used for and who the account is accessible by do not apply.

Regulation 2(3)(c) and (4) make consequential amendments.

An impact assessment has not been produced for this instrument as it has no impact on business or civil society organisations.