

2014 No. 2823

NATIONAL HEALTH SERVICE, ENGLAND

SOCIAL CARE, ENGLAND

**The Care and Support (Discharge of Hospital Patients)
Regulations 2014**

Made - - - - - *6th October 2014*

Laid before Parliament *24th October 2014*

Coming into force in accordance with regulation 1(1)

The Secretary of State makes these Regulations in exercise of the powers conferred by paragraphs 2(5)(b), 4(6), 6 and 8 of Schedule 3 to, and section 125(7) of, the Care Act 2014(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Discharge of Hospital Patients) Regulations 2014 and come into force immediately after section 74 of the Care Act 2014 comes fully into force(b).

(2) In these Regulations—

“the Act” means the Care Act 2014;

“delayed discharge period” means the period determined in accordance with regulation 9;

“NHS continuing health care” means a package of care arranged and funded solely by the health service for a person aged 18 or over to meet physical or mental health needs which have arisen as a result of disability, accident or illness.

(3) For the purposes of these Regulations, a reference to a section or a Schedule is a reference to that section of, or Schedule to, the Act, unless indicated otherwise.

Form of notices

2.—(1) This regulation applies to the following—

(a) an assessment notice(c);

(b) a discharge notice(d); and

(c) a withdrawal notice(e) given by an NHS body(f) to a local authority(g) under—

(a) 2014 c.23 (“the Act”). The powers to make regulations are exercisable by the Secretary of State, *see* section 125(1).

(b) Section 74 was commenced for the purpose of making regulations by S.I. 2014/2473.

(c) *See* paragraph 1(2) of Schedule 3 for the meaning of “assessment notice”.

(d) *See* paragraph 2(2) of Schedule 3 for the meaning of “discharge notice”.

(e) *See* paragraph 1(5)(c) of Schedule 3 for the meaning of “withdrawal notice”.

(f) *See* paragraph 7(4) of Schedule 3 for the definition of “NHS body”.

(g) *See* section 1(4) for the definition of “local authority”; the definition is limited to local authorities in England.

- (i) paragraph 1(5)(c) of Schedule 3; or
- (ii) paragraph 2(4)(b) of Schedule 3.

(2) The notice must—

- (a) be in writing; and
- (b) contain the date on which it is given.

Assessment notice: contents

3.—(1) An assessment notice must contain—

- (a) the name of the patient to whom the notice relates;
- (b) the patient's NHS number;
- (c) if given before the patient's admission, the expected date of admission and the name of the hospital to which the patient is expected to be admitted;
- (d) if given after the patient's admission, the name of the hospital in which the patient is being accommodated;
- (e) an indication of the likely date of the patient's discharge, if known;
- (f) a statement—
 - (i) that the NHS body responsible for the patient has complied with its duty under paragraph 1(4) of Schedule 3 (duty to consult patient and any carer^(a) that the patient has);
 - (ii) that the NHS body has considered whether or not to provide the patient with NHS continuing health care, and the result of that consideration; and
 - (iii) as to whether the patient or (where applicable) the patient's carer has objected to the giving of the assessment notice; and
- (g) the contact details of the person at the hospital who will be responsible for liaising with the relevant authority^(b).

(2) In paragraph (1)(g), the reference to contact details in relation to that person means—

- (a) their full name; and
- (b) either or both of the following—
 - (i) their telephone number;
 - (ii) their electronic mail address.

Assessment notice: withdrawal

4. A notice withdrawing an assessment notice must be given where—

- (a) the NHS body responsible for the patient considers that it is likely to be safe to discharge the patient without arrangements for meeting the patient's needs for care and support or (where applicable) the carer's needs for support being put in place;
- (b) the NHS body considers that the patient needs NHS continuing health care;
- (c) the NHS body, having received the information specified in paragraph 3(1)(d) of Schedule 3 (how local authority plans to meet needs), still considers that it is unlikely to be safe to discharge the patient from hospital unless further arrangements are put in place for meeting the patient's needs for care and support or (where applicable) the patient's carer's needs for support;
- (d) the patient's proposed treatment is cancelled or postponed;

(a) See section 10(3) for the meaning of "carer".

(b) See paragraph 1(2) of Schedule 3 for the meaning of "relevant authority".

- (e) the NHS body has been informed by the relevant authority that it is not required to carry out an assessment because the patient has refused a needs assessment^(a) or (where applicable) the patient's carer has refused a carer's assessment^(b); or
- (f) the NHS body becomes aware that—
 - (i) the patient's ordinary residence has changed since the assessment notice was given; or
 - (ii) the notice was given to a local authority other than the one in whose area the patient is ordinarily resident.

Discharge notice: minimum period of service

5. A discharge notice may not be given less than one day in advance of the proposed discharge date.

Discharge notice: contents

- 6.—(1) A discharge notice must contain—
- (a) the name of the patient to whom the notice relates;
 - (b) the patient's NHS number;
 - (c) the name of the hospital in which the patient is being accommodated;
 - (d) the contact details of the person at the hospital who will be responsible for liaising with the relevant authority;
 - (e) the date on which it is proposed that the patient be discharged;
 - (f) a statement confirming that the patient and, where applicable, the patient's carer has been informed of the date on which it is proposed that the patient be discharged; and
 - (g) a statement that the discharge notice is given under paragraph 2(1)(b) of Schedule 3.
- (2) In paragraph (1)(d), contact details in relation to that person means—
- (a) their full name; and
 - (b) either or both of the following—
 - (i) their telephone number;
 - (ii) their electronic mail address.

Discharge notice: withdrawal

7.—(1) Subject to paragraph (2), a notice withdrawing a discharge notice must be given where the NHS body responsible for the patient considers that it is no longer likely to be safe to discharge the patient on the proposed discharge date.

(2) Paragraph (1) does not apply where the only reason that the NHS body considers that it is no longer likely to be safe to discharge the patient on the proposed discharge date is that the relevant authority has—

- (a) not discharged its duty to carry out a needs assessment or (where applicable) a carer's assessment in relation to the patient; or
- (b) not put in place arrangements for meeting some or all of those needs that it proposes to meet under sections 18 to 20 in the case of the patient or (where applicable) the patient's carer.

(a) See section 9(2).
 (b) See section 10(2).

Relevant day

8. The period specified for the purposes of paragraph 2(5)(b) of Schedule 3 (relevant day in relation to discharge notice)(a) is the period—

- (a) beginning with the day after that on which the assessment notice is given or treated as given in accordance with regulation 11; and
- (b) ending two days after that date.

Delayed discharge period

9.—(1) The specified period for the purposes of paragraph 4(6) of Schedule 3 is to be determined in accordance with this regulation.

(2) The specified period begins on the day after the day which is the relevant day(b) in relation to that discharge notice.

(3) The specified period ends with the earliest of the days on which any of the following first occur—

- (a) the NHS body responsible for the patient withdraws the assessment notice or discharge notice relating to that patient;
 - (b) the relevant authority gives notice to the NHS body responsible for the patient that it has—
 - (i) carried out a needs assessment and (where applicable) a carer’s assessment in relation to the patient to whom the notice relates; and
 - (ii) put in place arrangements for meeting some or all of those needs that it proposes to meet under sections 18 to 20 in the case of the patient or (where applicable) the carer;
 - (c) the relevant authority is no longer required to put in place arrangements to meet the needs of the patient and (where applicable) the carer under sections 18 to 20 because—
 - (i) the patient informs the relevant authority that they have arranged their own care or other care is arranged for the patient; and
 - (ii) where applicable the carer informs the relevant authority that they have arranged their own support or other support is arranged for the carer;
 - (d) the patient discharges themselves;
 - (e) the NHS body responsible for the patient decides that the patient needs to remain in hospital for a further course of treatment; or
 - (f) the patient dies.
- (4) A day is not to be treated as a day of the specified period in the following circumstances—
- (a) the relevant authority has by 11am on that day put in place arrangements for meeting some or all of the needs that it proposes to meet under sections 18 to 20 in the case of the patient or (where applicable) the carer; or
 - (b) the NHS body responsible for the patient considers that the patient is not able to be discharged due to a deterioration on that day.

Delayed discharge payment

10. For the purposes of paragraph 4(6) of Schedule 3 (amount to be paid for each day of delayed discharge period), the amount specified is—

- (a) £155 where the relevant authority is—
 - (i) a London borough council, or

(a) See also paragraph 2(6) of Schedule 3.

(b) See paragraph 2(5) of Schedule 3 for the definition of “relevant day”.

- (ii) the Common Council of the City of London; and
- (b) £130 in any other case.

Day on which assessment and discharge notice is to be regarded as given

11. An assessment notice or a discharge notice which is given after 2pm on any day is to be treated as having been given on the following day.

Ordinary residence

12.—(1) Subject to paragraph (2), a local authority to which an assessment notice has been given must accept that notice and carry out the duties of a relevant authority arising from it even though it may wish to dispute that it was the correct authority to which to give the notice.

(2) Where for a reason set out in paragraph (3), it is agreed or determined that the patient to whom the notice relates is ordinarily resident in the area of another local authority then that local authority is to become the relevant authority in the patient's case.

(3) The reasons referred to in paragraph (2) are that—

- (a) the other local authority agrees that it is the correct authority; or
- (b) a determination is made under section 40 to the effect that the patient is ordinarily resident in the area of the other local authority.

(4) Where paragraph (2) applies, the local authority to which the notice was given may recover from the local authority which is the correct authority in relation to that case any expenditure it has incurred in relation to making a payment under paragraph 4 of Schedule 3 (delayed discharge payment) in that case.

Signed by authority of the Secretary of State for Health.

Dan Poulter
Parliamentary Under-Secretary of State,
Department of Health

6th October 2014

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the details of the scheme for the discharge of hospital patients with care and support needs set out in section 74 of, and Schedule 3 to, the Care Act 2014 ("the Act"). Schedule 3 to the Act makes provision for co-operative working to secure the safe discharge of patients in England from NHS, or NHS arranged, hospital care to local authority care and support and enables a relevant NHS body to seek reimbursement from a relevant local authority where a patient's discharge has been delayed due to a failure of the local authority either to arrange for relevant assessments or meet a patient's or (where applicable) that patient's carer's needs which the local authority proposes to meet.

Regulation 2 requires that all notices which the NHS body gives the local authority under Schedule 3 to the Act must be in writing and contain the date upon which it is given.

Regulation 3 sets out the details which an assessment notice must contain and regulation 4 sets out the circumstances under which an NHS body must withdraw an assessment notice.

Regulation 5 specifies that a discharge notice may not be given less than one day in advance of the proposed discharge date. Regulation 6 sets out the details which a discharge notice must contain and regulation 7 sets out the circumstances under which an NHS body must withdraw a discharge notice. Regulation 8 specifies that the minimum period for which a discharge notice may remain in force (unless withdrawn by the local authority) is two days after the date on which an assessment notice is given or treated as being given in accordance with regulation 11.

Regulation 9 sets out how the period for which the local authority may be liable to the NHS for reimbursement for the costs of the patient's care is to be determined and regulation 10 specifies the daily amount the local authority may be required to pay the NHS body in the event that the local authority has not assessed the patient and put in place arrangements to meet some or all of those needs that it proposes to meet.

Regulation 11 provides for the day on which an assessment and discharge notice is to be regarded as given.

Regulation 12 requires a local authority to which an assessment notice is given to accept that notice and be required to undertake the duties in relation to that patient notwithstanding that it may dispute that patient's ordinary residence. It also allows a local authority which has wrongly been given an assessment notice to claim reimbursement for any delayed discharge payment it has paid in that case from the local authority in whose area the patient is later agreed or determined to be ordinarily resident.

A separate impact assessment has not been prepared for these Regulations. These Regulations are part of a package of legislative measures and the relevant impact assessment can be requested via careactconsultation@dh.gsi.gov.uk or the Department of Health, Richmond House, 79 Whitehall, London SW1A 2NS and is available online at <https://www.gov.uk/government/organisations/department-of-health>.

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