

2001 No. 62

NATIONAL HEALTH SERVICE

The National Health Service (General Ophthalmic Services) (Scotland) Amendment Regulations 2001

Made

2nd March 2001

Laid before the Scottish Parliament

6th March 2001

Coming into force in accordance with regulation 1(2)

The Scottish Ministers, in exercise of the powers conferred by sections 26, 105(7), 106(a) and 108(1) of the National Health Service (Scotland) Act 1978(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (General Ophthalmic Services) (Scotland) Amendment Regulations 2001.

(2) These Regulations shall come into force—

- (a) on 1st April 2001 for all purposes except regulations 4 and 5(2) and (4);
- (b) on 10th April 2001 for the purposes of regulation 4; and
- (c) on 1st May 2001 for the purposes of regulation 5(2) and (4).

(3) In these Regulations—

“the principal Regulations” means the National Health Service (General Ophthalmic Services) (Scotland) Regulations 1986(b),

“primary care NHS trust” means an NHS trust to which functions have been delegated pursuant to section 12AA of the National Health Service (Scotland) Act 1978.

Amendment of regulation 2 of the principal Regulations

2. In regulation 2(1) of the principal Regulations (interpretation)(c), the following definitions are inserted in the appropriate places in alphabetical order—

““day centre” means an establishment attended by patients and accepted by the Health Board or primary care NHS trust as suitable for the provision of general ophthalmic services in the appropriate part of the Board’s area for those patients who would have difficulty in obtaining such services from practice premises because of physical or mental illness or disability or because of difficulties in communicating their health needs unaided;”;

(a) 1978 c.29; section 26 was amended by the Health and Social Security Act 1984 (c.48) (“the 1984 Act”) section 1(5) and (7), Schedule 1, Part II, paragraphs 1 to 4 and Schedule 8 and by the Health and Medicines Act 1988 (c.49), section 13(4); section 105(7), which contains provisions relevant to the making of Regulations, was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5 and Schedule 7, by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 9, paragraph 24, and by the Health Act 1999 (c.8), Schedule 4, paragraph 60; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.I. 1986/965, amended by S.I. 1988/543, 1989/387 and 1177, 1990/1048, 1991/534, 1992/531, 1995/704, 1996/843 and 2353, 1999/725 and S.S.I. 1999/55.

(c) Regulation 2 was amended by S.I. 1988/543, 1989/387, 1991/534, 1992/531, 1995/704, 1996/2353 and 843 and 1999/725 and S.S.I. 1999/55.

““mobile practice” means a contractor who does not have practice premises in the appropriate part of the Board’s area but who has undertaken to provide general ophthalmic services at a day or residential centre in that part of the Board’s area;”;

““residential centre” means an establishment in the appropriate part of the Board’s area for patients who normally reside in that establishment and who are unable to leave the establishment unaccompanied because of physical or mental illness or disability;”.

Amendment of regulation 6 of the principal Regulations

3. Regulation 6 of the principal Regulations (ophthalmic list)(a) is amended as follows–
- (a) in paragraph (3)(b) after “provide general ophthalmic services” there is inserted “, or in the case of a mobile practice, the address to which correspondence in connection with such provision may be sent and the addresses of any day centre or residential centre to be visited more than once”; and
 - (b) in paragraph (3)(c) after “at such addresses” there is inserted “, or in the case of visits to day centres or residential centres by a mobile practice, the months in which visits are intended to take place and the planned interval between such visits”.

Amendment of regulation 14 of the principal Regulations

4. In regulation 14(2) of the principal Regulations (sight tests – eligibility)(b), in sub-paragraphs (c), (d) and (g), for “£70” there is substituted “£71”.

Amendment of regulation 14A of the principal Regulations

5.—(1) Regulation 14A of the principal Regulations (sight tests – applications)(c) is amended in accordance with this regulation.

- (2) For paragraph (4)(a) there is substituted–
 - “(a) subject to paragraph (5)–
 - (i) satisfy himself that the person is an eligible person by asking for satisfactory evidence of entitlement, unless the contractor, in cases other than where the patient is a person specified in regulation 14(1)(c), already has satisfactory evidence of it available to him,
 - (ii) where the patient has been asked for but not produced satisfactory evidence that he is an eligible person, then the contractor shall record the fact on the patient’s sight test form;”.
- (3) After paragraph (5) there is added–
 - “(6) Where the contractor has provided the sight test at the place where the patient resides, he shall record on the sight test form the physical or mental illness or disability given by or on behalf of the patient as the reason for not being able to leave home unaccompanied.”.
- (4) After paragraph (6) there is added–
 - “(7) The contractor may appoint a member of his staff to undertake the task set out in sub-paragraph (4)(a) on his behalf, and where he does so he shall ensure that that staff member is given sufficient instruction to enable him to perform that task.
 - (8) Where a contractor appoints a member of his staff under paragraph (7) above, the contractor shall be responsible for all acts or omissions of that member of staff in relation to that task.”.

Amendment of regulation 17 of the principal Regulations

6. In regulation 17 of the principal Regulations (service of documents on contractors)(d) after “provide general ophthalmic services” there is added “, or, in the case of a mobile practice,

(a) Regulation 6 was substituted by S.I. 1988/543, and subsequently amended by S.I. 1991/534, 1996/843 and 1999/725 and S.S.I. 1999/551.

(b) Regulation 14 was substituted by S.I. 1989/387, and relevant amending instruments are S.I. 1991/534, 1995/704 and 1996/2353 and S.S.I. 1999/55.

(c) Regulation 14A was inserted by S.I. 1989/387 and amended by S.S.I. 1999/55.

(d) Regulation 17 was amended by S.S.I. 1999/55.

the address notified to the Board or primary care NHS trust as the address to which correspondence may be sent”.

Amendment of Schedule 1 to the principal Regulations

7.—(1) Schedule 1 to the principal Regulations (terms of service)(a) is amended in accordance with this regulation.

(2) In paragraph 3 (premises at which general ophthalmic services are to be provided)(b) for sub-paragraph (2) there is substituted—

- “(2) Where requested to do so by or on behalf of a patient, who is—
- (a) unable to leave home unaccompanied because of physical or mental illness or disability, a contractor may agree to provide general ophthalmic services at the place at which the patient normally resides; or
 - (b) attending a day centre, a contractor may agree to provide general ophthalmic services at that day centre.”.

(3) After paragraph 3 there is inserted—

“Visits

3A.—(1) In the case of a mobile practice, a contractor shall give the Board or primary care NHS trust notice in accordance with sub-paragraph (2) of any visits which he intends to make to provide general ophthalmic services to at least three persons at day centres or in residential centres in the appropriate part of the Board’s area.

(2) The contractor shall notify the Board or primary care NHS trust at least one month in advance of the month in which he intends to visit any establishment in the appropriate part of the Board’s area and of the intervals at which he intends to make return visits.”.

(4) In paragraph 4 (premises and equipment)(c)—

- (a) in sub-paragraph (1) for “Subject to paragraph 8(5),” there is substituted “Subject to paragraphs 4(1A) and 8(5),”;
- (b) after sub-paragraph (1) there is inserted—

“(1A) In the case of a mobile practice, the contractor shall provide suitable equipment for the provision of general ophthalmic services which he has undertaken to provide.”;

- (c) in sub-paragraph (2) for “Subject to paragraph 8(5),” there is substituted “Subject to paragraphs 4(2A) and 8(5),”;
- (d) after sub-paragraph (2) there is inserted—

“(2A) In the case of a mobile practice, the contractor, on receipt of a written request from the Board or primary care NHS trust to do so, shall arrange for an ophthalmic officer or any authorised officer of the Scottish Ministers or the Board or primary care NHS trust or member of the Board or primary care NHS trust to be allowed to inspect at a reasonable time the facilities and equipment that he uses.”.

(5) For paragraph 6 (records)(d) there is substituted—

“6.—(1) A contractor shall keep a proper record in respect of each patient to whom he provides general ophthalmic services, giving appropriate details of sight testing.

(2) A contractor shall retain all such records for a period of seven years.

(3) A contractor shall, when requested to do so by any authorised officer of the Scottish Ministers, the Agency, the Board, or the primary care NHS trust during the period in which he is required to retain such records—

- (a) produce them to such authorised officer of the Scottish Ministers, the Agency, the Board, or the primary care NHS trust; or

(a) Schedule 1 was amended by S.I. 1988/543, 1989/387 and 1177, 1990/1048, 1996/843, 1999/725 and S.S.I. 1999/55.

(b) Paragraph 3 was amended by S.I. 1990/1048.

(c) Paragraph 4 was amended by S.I. 1998/543 and 1999/725, and S.S.I. 1999/55.

(d) Paragraph 6 was amended by S.I. 1998/543 and 1999/725 and S.S.I. 1999/55.

- (b) send them to such authorised officer of the Scottish Ministers, the Agency, the Board, or the primary care NHS trust within such period as may be specified by the authorised officer not being less than 14 days from the date of the request.”

(6) In paragraph 10 (testing of sight), in sub-paragraph (2) for “he shall so inform the patient’s doctor” there is substituted “he shall, if appropriate, and with the consent of the patient, inform the patient’s doctor of his opinion.”.

St Andrew’s House,
Edinburgh
2nd March 2001

SUSAN C DEACON
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (General Ophthalmic Services) (Scotland) Regulations 1986 (S.I. 1986/965) (“the principal Regulations”), which provide for arrangements under which ophthalmic medical practitioners and ophthalmic opticians provide general ophthalmic services under the National Health Service.

Regulation 2 amends regulation 2 of the principal Regulations (interpretation) by inserting definitions of “day centre”, “mobile practice” and “residential centre”.

Regulation 3 amends regulation 6 of the principal Regulations (ophthalmic list) to impose requirements that information in respect of mobile practices be included to the ophthalmic list kept pursuant to regulation 6 of the principal Regulations. Regulation 6 amends regulation 17 of the principal Regulations (service of documents on contractors) to provide that notices sent to mobile practices shall be sent to a correspondence address given for that purpose.

Regulation 4 amends regulation 14(2) of the principal Regulations (sight tests - eligibility) by increasing the amounts in sub-paragraphs (c), (d) and (g), by reference to which a persons eligibility for sight testing is assessed, from £70 to £71.

Regulation 5 amends regulation 14A of the principal Regulations (sight tests - applications). It provides that when a patient asks for a sight test, under general ophthalmic services, a contractor must ask the patient to produce satisfactory evidence of entitlement, unless, in cases other than where the patient is eligible by virtue of his lack of resources, the contractor already has satisfactory evidence. If the patient does not produce such evidence the contractor shall record this fact on the sight test form. Additionally, where the contractor carries out a sight test at the patient’s home, he must record on the sight test form the reason for this.

Regulation 7 amends Schedule 1 to the principal Regulations (terms of service). Regulation 7(2) amends paragraph 3 of Schedule 1 to enable contractors to provide general ophthalmic services to patients attending day centres or in specified circumstances to patients at the place at which they normally reside. Regulation 7(3) inserts a new paragraph 3A into Schedule 1 require mobile practices to provide information about visits to day centres or residential centres. Regulation 7(4) amends paragraph 4 of Schedule 1 by imposing requirements upon mobile practices to provide suitable equipment and to allow inspection of this and the facilities by the Ophthalmic Officer, any authorised officer of the Scottish Ministers, or member of the Health Board or appropriate NHS trust. Regulation 7(6) amends paragraph 10 of Schedule 1 to provide that following a sight test information shall be given by the contractor to the patient’s doctor only if it is appropriate and with the consent of the patient.

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