

POLICY NOTE

THE NATIONAL HEALTH SERVICE (GENERAL DENTAL SERVICES) (SCOTLAND) AMENDMENT REGULATIONS 2016

SSI 2016/53

The above instrument was made in exercise of the powers conferred by sections 25(1), (2) and (2A), 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(a) and all other powers enabling them to do so.

Policy Objectives

The purpose of this instrument is to amend the National Health Service (General Dental Services) (Scotland) Regulations 2010 (“the 2010 Regulations”) (SSI 2010/208) to:

- Allow the Scottish Dental Practice Board to make payments on account for all types of general dental services (currently payments on account can only be made for orthodontic care and treatment);
- Require dentists to examine adult patients at the time they are registered (at present this requirement only applies to child patients);
- Ensure that where a dentist wishes to terminate a capitation or continuing care arrangement, their reason for doing so does not relate to the race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition of the patient.
- Allow for the adoption of e-signature technology by dental practices;
- Clarify existing provisions regarding the inspection of dental practices by Health Boards, and introduce a new provision that allows Health Boards to make an unannounced inspection where there is a clear risk to the safety of the patient;
- Require applicants, applying for the first time or after an absence of less than 5 years, to a Health Board’s dental list to provide general dental services to provide certificates which confirm that they have completed mandatory training provided by NHS Education Scotland (NES), and similarly for those returning to work after an absence of 5 years or more, to provide certificates which confirm that they have completed return-to-work training provided by NES;
- Remove the limit of £350 from the regulations at which point the dentist must seek prior approval for the treatment plan from the Scottish Dental Practice Board (SDPB). Instead the limit will be the amount set out in Determination I of the Statement of Dental Remuneration;
- Make minor drafting and tidying up amendments.

Background

The National Health Service (General Dental Services) (Scotland) Regulations 2010 make provision for Health Boards to enter into arrangements with individual dentists or dental bodies corporate (DBC) in order to provide, or assist with the provision of, general dental services (GDS) in an area.

Dentists can join either the first or second part of the list, depending on whether they wish to provide or assist with the provision of GDS. A provider or contractor may work under a variety of arrangements, with practices being owned by an individual dentist, dentists in partnership, dentists in a limited liability partnership (DBC), and other DBCs where the dentists work in the practice as either associates or assistants, to a large company that may own several practices.

Contractors receive monthly capitation and continuing care payments for each adult and child registered with them. A capitation or continuing care payment is triggered on receipt by the Common Services Agency of a paper GP17 (NHS GDS registration and claim form) completed and signed by the dentist and patient, or parent in case of a child, or equivalent electronic information.

Amendments to the 2010 Regulations

Regulation 2(3) enables payments to be made to all dentists on account by the SDPB. The current provision only allows for payments to be made on account for orthodontic treatment, in recognition that orthodontic treatment can take a comparatively long time to complete, and therefore interim payments may be made to reflect the work done to date. The provision of general treatment has moved on, with a number of courses of treatment taking as long to complete as orthodontic treatment. This amendment provision recognises the increasing complexity of dental treatment by providing the opportunity for the SDPB to introduce payments on account for general dental treatment.

Regulation 2(4) makes a number of amendments to schedule 1 of the 2010 Regulations.

Paragraph 4 of schedule 1 is amended to include the requirement that where the patient is accepted into a continuing care arrangement, the patient is also examined. At present the dentist is required to provide the patient with certain information only. The arrangements for adult and child registrations will be aligned so that as for child patients, the patient needs to be seen by a dentist in order to be accepted into a continuing care arrangement.

Paragraph 10 of schedule 1 is amended to ensure that where a dentist wishes to terminate a capitation or continuing care arrangement with a patient, that the relationship can only be terminated on grounds which do not relate to the patient's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition. This provision brings general dental services into line with general medical services.

Paragraph 27 of schedule 1 is amended to allow for dental practices to adopt e-signature technology. At present practices with IT practice management systems are required to retain one form, the GP17(PR) form, in paper copy. Removing this requirement will allow the dentist to move to electronic records and instead the patient will sign a tablet with the record retained in computerised form.

Paragraph 42 of schedule 1 is amended to enable Health Boards to make unannounced practice inspections, where (a) concerns about patient safety were raised during a previous routine inspection by the Health Board; and, (b) information comes to light that necessitates further investigation by the Health Board. At present a practice that provides NHS general dental services is inspected on a three year cycle. This new provision will allow the Health Board to make an unannounced inspection in response to a specific concern such as an

infection control incident, or may be used to confirm that a practitioner who has been removed from the Health Board list is not working in the practice.

Regulation 2(5) makes amendments to Part 1A of schedule 2 to ensure that for dentists applying to join the dental list in Scotland for the first time, or where a dentist is returning to clinical work after an absence of less than 5 years, that they must satisfactorily complete a mandatory training programme, proof of which would be a certificate from NES. Inclusion of this provision will mean that all dentists seeking to join the dental list in Scotland must obtain a certificate from NES to confirm that they have a sufficient level of training on the system of NHS dentistry in Scotland. The amendment also introduces a similar provision for dentists returning to clinical work after an absence of 5 years or more, requiring them to produce a certificate confirming that they have successfully completed return-to-work training.

Regulation 2(6) makes amendments to schedule 4 that removes the reference to the amount, currently £350, of the cost of a treatment plan, before a dentist must submit the plan to the SDPB for prior approval. The purpose of this amendment is to allow the amount to be varied on a more frequent basis, without necessitating an amendment to the 2010 Regulations.

A number of other minor and tidy-up amendments are included in these changes to the Regulations.

Consultation

The British Dental Association (Scotland) have been made aware of these amendment Regulations. Further discussions will take place with BDA (Scotland) on how unannounced inspections will be implemented by Health Boards, with appropriate guidance being put in place.

Impact Assessment

The Minister for Public Health confirms that no Equality Impact Assessment is required as this instrument has no adverse effects on patients.

Financial Effects

The Minister for Public Health confirms that no Business Regulatory Impact Assessment is necessary as the instrument has no financial effects on local government or on business.

Scottish Government
Directorate for Healthcare Quality and Strategy
CDO & Dentistry Division
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