

POLICY NOTE

THE NATIONAL HEALTH SERVICE (GENERAL DENTAL SERVICES) (SCOTLAND) AMENDMENT REGULATIONS 2017

SSI 2017/289

The above instrument was made in exercise of the powers conferred by sections 25(1), (2) and (2A), 28A(4), 105(7) and 106(a) of the National Health Service (Scotland) Act 1978 and all other powers enabling them to do so. The instrument is subject to negative procedure.

Policy Objectives

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

- correct drafting errors inserted by the National Health Service (General Dental Services) (Scotland) Amendment Regulations 2016 (“the 2016 Regulations”) (S.S.I. 2016/53);
- clarify the circumstances in which dentists applying to join sub-part A of the first part of a Health Board’s dental list (as “contractors”) require to have satisfactorily completed mandatory training provided by NHS Education for Scotland (NES) and the test of knowledge set by NES, and impose similar requirements on certain dentists applying to join the second part of a dental list (as “assistants”);
- insert deadlines by which estimates for prior approval and payment claims for treatment provided under general dental services must be submitted electronically;
- allow for certain forms or information to be provided by means of electronic communication, while requiring other forms or information to continue to be provided in writing;
- replace the requirement on dentists to undertake clinical audit activities with a requirement to undertake a broader range of “quality improvement activities”.

Mandatory Training

Regulation 2(5) of the 2016 Regulations inserted new paragraphs (v) and (w) to Part IA (information, declarations, certificate, applications, disclosure requests etc.) of schedule 2 of the 2010 Regulations. The intention behind this amendment was to require dentists applying to join the dental list as contractors or assistants for the first time, or where returning to clinical work after a specified absence to satisfactorily complete training, proof of which would be a certificate from NES. The following errors were identified in Regulation 2(5) of the 2016 Regulations:

- paragraph 1 of Part IA of schedule 2 of the 2010 Regulations already contained a sub-paragraph (v). The new sub-paragraphs inserted by the 2016 Regulations should have been (w) and (x);
- Part IA of schedule 2 of the 2010 Regulations applies only to those applying to join a dental list as contractors. Part II of schedule 2 applies to those applying to join the

dental list as assistants and the provisions inserted by sub-paragraphs (v) and (w) of paragraph 1 of Part IA should have been replicated in Part II.

An undertaking was given to correct these drafting errors at the first opportunity.

The instrument (1) sets out the requirements for mandatory training and (2) corrects the errors which arose from the 2016 Regulations.

1. Requirements for mandatory training

Certain dentists applying to join a dental list as a contractor or assistant require to undertake mandatory training when applying to join the dental list for the first time or returning to the dental list after not being included in the list for 12 months or more. New regulation 5A of the 2010 Regulations (inserted by regulation 4 of the instrument) sets out who those dentists are. There are two parts to this training - "Part 1 training" and "Part 2 training" (new definitions are inserted in the 2010 Regulations). Regulation 5A of the 2010 Regulations also sets out which dentists require to satisfactorily complete both parts of mandatory training, or Part 2 only, before applying to join a dental list.

Those dentists who undertake mandatory training also have to satisfactorily complete a test of knowledge within 6 weeks of completion of training. A definition of "test of knowledge" is inserted into the 2010 Regulations and new schedule A1 of the 2010 Regulations sets down a list of topics on which questions may be asked in that test.

2. Correction of errors

Regulation 12 amends paragraph 1 of Part 1A of schedule 2 of the 2010 Regulations to correct the lettering error by substituting new sub-paragraphs (w) and (x) into the 2010 Regulations for sub-paragraphs (v) and (w). New sub-paragraph (w) requires certain dentists (who are specified in regulation 5A(3) of the 2010 Regulations) applying for inclusion in a dental list as a contractor to provide a certificate confirming satisfactory completion of Part 2 mandatory training and the test of knowledge. New sub-paragraph (x) requires certain other dentists applying for inclusion in a dental list as a contractor (who are specified in regulation 5A(4) and (6) of the 2010 Regulations) to provide a certificate confirming satisfactory completion of Part 1 and Part 2 mandatory training and the test of knowledge.

Regulation 13 amends paragraph 1 of Part II of schedule 2 of the 2010 Regulations to insert new sub-paragraphs (l) and (m). These new provisions replicate the requirements for dentists applying to join a dental list as a contractor for those applying to join the list as an assistant.

Electronic Submission of Estimate and Payment Claims/Communication

As part of a vision for eDentistry target dates were set for the electronic submission of estimates for prior approval and payment claims. From these dates paper estimates and claims for payment will no longer be accepted.

Regulation 11(9) amends paragraph 20 of schedule 1 of the 2010 Regulations to require all claims for fees and other remuneration for the provision of general dental services to be submitted by electronic communication from 1 January 2018, with the exception of claims submitted in respect of orthodontic treatment. New paragraph 20(2A) of the 2010

Regulations allows orthodontic claims to continue to be submitted by post or hand until 31 December 2018.

Regulation 11(12) amends paragraph 29 of schedule 1 of the 2010 Regulations to require all estimates for prior approval of a proposed course of NHS dental care and treatment to be submitted by electronic communication from 1 October 2018, with the exception of estimates submitted in respect of orthodontic treatment. New paragraph 29(4) of the 2010 Regulations allows orthodontic estimates to continue to be submitted by post or hand until 31 December 2018. Regulation 3(1)(c) inserts an interim definition of “estimate”, which ceases when the definition of “estimate” in regulation 3(1)(d) comes into effect on 1 January 2019.

A number of amendments have been made to the 2010 Regulations to allow for certain forms or information to be provided by means of electronic communication, while requiring other forms or information to continue to be provided in writing.

Clinical Audit/Quality Improvement

Dentists are required under paragraph 40 (clinical audit activities) of schedule 1 of the 2010 Regulations to undertake clinical audit activities. The current definition of clinical audit activities restricts the type of projects that dentists can undertake. The replacement of the requirement to undertake clinical audit activities with a requirement to undertake “quality improvement activities” will broaden the scope of activities that can be undertaken. Regulations 5 and 11(13) replace references to clinical audit with references to quality improvement.

Consultation

The British Dental Association (Scotland) has been made aware of these Amendment Regulations.

Impact Assessment

The Cabinet Secretary for Health and Wellbeing confirms that no Equality Impact Assessment is required as this instrument has no adverse effects on patients.

Financial Effects

The Cabinet Secretary for Health and Wellbeing confirms that no Business Regulatory Impact Assessment is necessary as this instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Directorate of Population Health
CDO & Dentistry Division
7 September 2017