
STATUTORY INSTRUMENTS

1995 No. 3280

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service (Fund-holding
Practices) (Functions of Family Health
Services Authorities) Regulations 1995**

Made - - - - *18th December 1995*
Laid before Parliament *19th December 1995*
Coming into force - - *9th January 1996*

The Secretary of State for Health, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of powers conferred on them by section 126(4) and (5) of the National Health Service Act 1977(1) and section 14(6), 15(7) and 17(1) and (2) of the National Health Service and Community Care Act 1990(2) 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 (Fund-holding Practices) (Functions of Family Health Services Authorities) Regulations 1995 and shall come into force on 9th January 1996.

(2) In these Regulations—

“the 1977 Act” means the National Health Service Act 1977;

“the 1990 Act” means the National Health Service and Community Care Act 1990;

“FHSA” means Family Health Services Authority; and

“the principal Regulations” means the National Health Service (Fund-holding Practices) Regulations 1993(3).

(1) 1977 c. 49; see section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19), section 26(2) (g) and (i), for the definitions of “prescribed” and “regulations”. Section 126(4) was amended, and section 126(3) inserted, by the 1990 Act, section 65(2).

(2) 1990 c. 19.

(3) S.I.1993/567, amended by S.I. 1994/640 and 1995/692.

Amendment of regulation 1 of the principal Regulations

2. In regulation 1 of the principal Regulations (citation, commencement and interpretation), in paragraph (8), after “Regional Health Authority” insert “or an FHSA”.

Amendment of regulation 3 of the principal Regulations

3. In regulation 3 of the principal Regulations (application for recognition as a fund-holding practice)—

(a) for paragraph (1), substitute—

“(1) Subject to paragraph (5), an application shall be made in writing and shall be sent to the relevant FHSA.”;

(b) in paragraph (2A)—

(i) for “Regional Health Authority” substitute “relevant FHSA”, and

(ii) at the end insert “and where the relevant FHSA receives such a notice after it has forwarded the application to the Regional Health Authority pursuant to paragraph (2B), it shall forward the notice to the Regional Health Authority”.

(c) after paragraph (2A), insert the following new paragraphs—

“(2B) The relevant FHSA shall consider the application and, subject to paragraphs (4) and (5), forward it to the Regional Health Authority together with a notice stating whether the practice—

(a) complies with the relevant condition set out in paragraph 1(a) or (b) of Schedule 1 or, in the opinion of the relevant FHSA, is likely to do so by the date on which any recognition would take effect;

(b) will, in the opinion of the relevant FHSA, be capable of managing an allotted sum effectively and efficiently; and

(c) complies with the conditions set out in paragraphs 2, 5 and 6 of Schedule 1.

(2C) Where the notice mentioned in paragraph (2B) states that in the opinion of the FHSA the practice will not be capable of managing an allotted sum effectively and efficiently, the FHSA shall include with the notice a statement of the reasons for its opinion.

(2D) The relevant FHSA shall send a copy of the notice mentioned in paragraph (2B), together with any statement of reasons as mentioned in paragraph (2C), to the members of the practice.

(2E) Where the notice mentioned in paragraph (2B) states—

(a) that the practice does not comply with the relevant condition specified in paragraph 1(a) or (b) of Schedule 1 and that, in the opinion of the relevant FHSA, it is not likely to do so by the date on which any recognition would take effect; or

(b) that the practice will not, in the opinion of the relevant FHSA, be capable of managing an allotted sum effectively and efficiently; or

(c) that the practice does not comply with one or more of the conditions specified in paragraphs 2, 5 or 6 of Schedule 1,

the Regional Health Authority (or, as the case may be, the Secretary of State) shall invite the practice to comment upon the relevant FHSA’s observations before deciding whether or not to grant recognition as a fund-holding practice in accordance with regulation 5.”; and

(d) paragraph (4), shall be omitted.

Amendment of regulation 9 of the principal Regulations

4. In regulation 9 of the principal Regulations (additions to existing fund-holding practices), in paragraph (1)(a), omit “to the Regional Health Authority”.

Amendment of regulation 13 of the principal Regulations

5. In regulation 13 of the principal Regulations (grounds for removal of recognition) after paragraph (2), insert—

“(3) The relevant FHSA shall have the function of collecting, collating and forwarding to the Regional Health Authority any information reasonably required by the Regional Health Authority to enable it to consider removal of recognition from the members of a fund-holding practice.”.

Determination of allotted sum

6. After regulation 18 insert—

“PART IVA

ALLOTTED SUM—DETERMINATION

Determination of allotted sum

- 18A.** In respect of each recognised fund-holding practice the relevant FHSA shall—
- (a) collect and collate any information reasonably required by the Regional Health Authority to enable it to make a determination of the allotted sum payable to that fund holding practice under-section 15(1) of the 1990 Act;
 - (b) make any such information available to the members of the fund-holding practice and, before it makes the recommendation mentioned in paragraph (c), invite the fund-holding practice to make representations to it concerning either the accuracy or the significance of the information; and
 - (c) subject to any directions issued by the Secretary of State under section 15(1) of the 1990 Act, propose an allotted sum to the Regional Health Authority and send with its proposal—
 - (i) the information collected pursuant to paragraph (a), and
 - (ii) a notice in writing stating whether the fund-holding practice agrees with the sum proposed.”.

Transfer of functions to FHSAs

7.—(1) To the extent that functions conferred on an FHSA by the amendments made by regulations 2 to 6 of these Regulations are functions of a Regional Health Authority (or where the FHSA is located in Wales, of the Secretary of State) under sections 14 to 16 of the 1990 Act, they shall become functions of the FHSA with effect from 9th January 1996.

(2) The FHSA which is to exercise the functions of the relevant Regional Health Authority (or, as the case may be, the Secretary of State) in accordance with paragraph (1) in relation to the members of any existing recognised fund-holding practice and in relation to any medical practitioners wishing to apply for recognition shall be the relevant FHSA.

(3) In this regulation—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) “relevant FHSA” shall be construed in accordance with section 15(1B) of the 1977 Act(4) and section 14(4) of the 1990 Act; and
- (b) “relevant Regional Health Authority” shall be construed in accordance with section 14(3) of the 1990 Act.

Signed by authority of the Secretary of State for Health,

Gerald Malone
Minister of State,
Department of Health

18th December 1995

William Hague
Secretary of State for Wales

(4) Section 15(1B) was added by section 12(1) of the 1990 Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Fund-holding Practices) Regulations 1993 which regulate the recognition and operation of fund-holding practices, to confer on Family Health Services Authorities (“FHSAs”) certain functions in relation to fund-holding practices, and provide that to the extent that these amendments confer on FHSAs functions which are currently the responsibility of Regional Health Authorities (“RHAs”), or in Wales of the Secretary of State, those functions shall become FHSA functions.

Regulation 3 provides that applications for recognition as a fund-holding practice are to be sent in the first instance to the FHSA which is to forward them to the RHA together with the FHSA’s observations on the practice’s suitability for fund-holding status. Regulation 5 requires FHSAs to gather and make available to RHAs information relevant to possible removal from the scheme. Regulation 6 requires each FHSA to gather information relevant to the RHA’s determination of a fund-holding practice’s allotted sum and to propose to the RHA an allotted sum in relation to each fund-holding practice.

Regulations 2 and 4 contain consequential and drafting amendments to the 1993 Regulations.