
STATUTORY INSTRUMENTS

1999 No. 261

The National Health Service (Fund-holding Practices) Amendment Regulations 1999

PART III

**AMENDMENTS EFFECTING A SINGLE FORM OF
FUND-HOLDING PRACTICE AS FROM 1ST APRIL 1999**

Amendment of regulation 1 of the principal Regulations

- 9.** In regulation 1 (citation, commencement and interpretation)—
- (a) in paragraph (2) omit the definitions of “community fund-holding practice”, “GP commissioning group”(1) and “standard fund-holding practice”; and
 - (b) in paragraph (5), for “19, 20, 22, 23 and 24” substitute “20, 23, 24 and 24A”.

Amendment of regulation 3 of the principal Regulations

- 10.** In regulation 3 of the principal Regulations (application for recognition as a fund-holding practice)—
- (a) omit paragraphs (2)(2) and (6)(a); and
 - (b) in paragraph (9)(3), for the words from “either-” to the end of sub-paragraph (b) substitute “that the practice will not, in the opinion of the Health Authority, be capable of managing an allotted sum effectively and efficiently”.

Amendment of regulation 5 of the principal Regulations

- 11.—**(1) Regulation 5 of the principal Regulations (grant of recognition as a fund-holding practice) is amended as follows.
- (2) In paragraph (1), for “as a standard fund-holding practice, a community fund-holding practice or a GP commissioning group (as the case may be)”, substitute “as a fund-holding practice”.
 - (3) For paragraph (2)(4), substitute—
 - “(2) Subject to paragraph (3), recognition which has been granted—
 - (a) on or after 31st July 1997 but before 1st April 2001 shall take effect from 1st April 2001; and
 - (b) on or after April 2001 shall take effect from whichever date, of 1st April 2005, 1st April 2009, and so on, most closely follows the date on which recognition was granted.”.

(1) The definition of “GP commissioning group” was inserted by S.I.1997/747.

(2) Paragraph (2) was substituted by S.I. 1997/747.

(3) Regulation 3(9)(a) was amended by S.I. 1997/747.

(4) Paragraph (2) was substituted by S.I. 1997/1678 and amended by S.I. 1998/693 and Part II of these Regulations.

Amendment of regulation 7 of the principal Regulations

12. In regulation 7 of the principal Regulations (conditions for continuing recognition)—
- (a) in paragraph (1), for “of a standard fund-holding practice or community fund-holding practice or GP commissioning group (as the case may be)”⁽⁵⁾ substitute “of a fund-holding practice”; and
 - (b) omit paragraph (2)⁽⁶⁾.

Amendment of regulation 9 of the principal Regulations

13. In regulation 9 of the principal Regulations (withdrawal or death of a member of a fund-holding practice)—
- (a) in paragraph (1), omit “in relation to the kind of practice in question”; and
 - (b) omit paragraphs (2) to (6).

Amendment of regulation 11 of the principal Regulations

14. In regulation 11 of the principal Regulations (renunciation of recognition)—
- (a) in paragraph (1), for “31st March following the sending of the notice” substitute “the last day of the month in which the notice is sent”; and
 - (b) in paragraph (2), omit sub-paragraph (b) and insert “and” at the end of sub-paragraph (a).

Amendment of regulation 12 of the principal Regulations

15. In regulation 12 of the principal Regulations (consequences of renunciation of recognition)—
- (a) in paragraph (1), for “the 31st March specified in the notice referred to in regulation 11” substitute “the last day of the month in which the notice referred to in regulation 11 is sent”; and
 - (b) in paragraph (3), for “ending on that date”, substitute “in which that date falls”.

Amendment of regulation 13 of the principal Regulations

16. In regulation 13 of the principal Regulations (grounds for removal of recognition), in paragraph (2), for the words “a community fund-holding practice or a standard fund-holding practice or a GP commissioning group (as the case may be)”⁽⁷⁾ substitute “a fund-holding practice”.

Amendment of regulation 20 of the principal Regulations

- 17.—(1) Regulation 20 of the principal Regulations (purchase of goods and services) is amended as follows.
- (2) Omit paragraphs (A1)⁽⁸⁾, (3) to (6) and (11)(a) and (b).
 - (3) In paragraph (1), for “Subject to paragraphs (3) to (11)” substitute “Subject to paragraphs (7) to (11) and to regulation 24A”.
 - (4) For paragraph (2) substitute—

(5) The reference to a GP commissioning group was inserted by S.I. 1997/747, which also renumbered the former regulation 7 as paragraph (1) of that regulation.

(6) Paragraph (2) was inserted by S.I. 1997/747.

(7) The words “or a GP commissioning group” were inserted by S.I. 1997/747.

(8) Paragraph (A1) was inserted by S.I. 1997/747.

“(2) The goods and services referred to in paragraph (1) are the goods and services specified in the list set out in Schedule 3 to these Regulations.”

(5) In paragraph (2A)(9), omit “Subject to paragraph (4)”.

(6) After paragraph (2A), insert—

“(2B) Except where goods and services are purchased pursuant to an agreement entered into before 1st April 1999, fund-holding practices shall purchase goods and services only from providers which are health service bodies.”

Amendment of regulation 21 of the principal Regulations

18. In regulation 21 of the principal Regulations (limit on provision of goods and services), omit paragraph (1)(10).

Amendment of regulation 23 of the principal Regulations

19.—(1) Regulation 23 of the principal Regulations (payment for management expenses) is amended as follows.

(2) In paragraph (1), at the beginning insert “Subject to regulation 24A,”.

(3) In paragraph (3), omit “either sub-paragraph (7)(d) for the purpose of buying computers, or”.

(4) Omit paragraphs (4) and (6).

(5) In paragraph (7)—

(a) omit sub-paragraph (c);

(b) in paragraph (d), after “computer hardware and software running costs” insert “and the renewal of any leasing agreements in respect of office equipment”; and

(c) in sub-paragraph (j)(11), for “the Statement referred to in regulation 22(2)”, substitute “the Statement published in accordance with regulation 34 of the National Health Service (General Medical Services) Regulations 1992(12), as it had effect on 1st April 1996”.

Amendment of regulation 24 of the principal Regulations

20.—(1) Regulation 24 of the principal Regulations (payments to a member of the fund-holding practice) is amended as follows.

(2) In paragraph (1)—

(a) at the beginning insert “Subject to regulation 24A,”;

(b) at the end of sub-paragraph (a) insert “or”;

(c) omit sub-paragraph (b); and

(d) in sub-paragraph (c), omit “or (e)”.

(3) In paragraph (2)—

(a) omit “standard”; and

(b) omit “Part I of”.

(4) In paragraph (3)(a), omit “Part I of”.

(9) Paragraph (2A) was inserted by S.I. 1997/747, and amended by S.I. 1997/1678.

(10) Paragraph (1) was inserted by S.I. 1997/747, which also renumbered the existing text of regulation 21 as paragraph (2) of that regulation.

(11) Sub-paragraph (j) was inserted by S.I. 1998/693.

(12) S.I. 1992/635, to which there are amendments not relevant to this regulation.

Limit on period of agreements

21. After regulation 24 insert—

“Limit on period of agreements

24A.—(1) Any agreement (whether or not it is an NHS contract for the purposes of section 4 of the 1990 Act) entered into on or after 1st April 1999 by the members of a fund-holding practice whereby the allotted sum would be applied as provided for in regulation 20, 23 or 24, must comply with the requirements of paragraph (2).

(2) The agreement shall contain terms the effect of which shall be that—

- (a) it shall come to an end not later than the end of the period of 6 months beginning with the date the agreement was made and that the duration of the agreement may not be extended; and
- (b) without prejudice to the availability of any remedy for breach of the agreement, no rights, liabilities or obligations are imposed beyond the end of that period.”

Amendment of regulation 25 of the principal Regulations

22.—(1) Regulation 25 of the principal Regulations (savings from the allotted sum) is amended as follows.

(2) In paragraph (1)—

- (a) for “regulations 19 and 20” substitute “regulation 20”;
- (b) omit “22,”, both times that it appears; and
- (c) omit “19,”.

(3) For paragraph (2) substitute—

“(2) Subject to paragraphs (3), (3B) and (3C), where the accounts for a financial year of members of a fund-holding practice have been audited in accordance with Part III of the Local Government Finance Act 1982⁽¹³⁾, the members of a fund-holding practice may, within the period of four years after the end of that financial year, with the consent of the Health Authority apply any part of the allotted sum paid to them in respect of that financial year for the purposes specified in regulations 20, 23(7)(j) and 24 or any one or more of the following purposes—

- (a) the purchase of material or equipment which—
 - (i) can be used for the treatment of patients of the members of the practice, or
 - (ii) enhances the comfort or convenience of patients of the members of the practice; or
- (b) the purchase of material or equipment relating to health education; or
- (c) in relation to any premises from which the members of the practice carry on their practice—
 - (i) improvements to the premises, including alterations to or decoration of the premises and the purchase of furniture and furnishings, or
 - (ii) building an extension provided that no acquisition of land is involved; or
- (d) the purchase of goods and services as part of an initiative to improve prescribing practices within the fund-holding practice; or
- (e) the cost of employing temporary staff.”

(13) 1982 c. 32, as amended by Schedule 4 to the National Health Service and Community Care Act 1990 (c. 19).

- (4) Omit paragraph (2A)(14).
- (5) In paragraph (2B)(15), omit “or (2A)”.
- (6) In paragraph (3)(16), omit “(a) to (f) or paragraph (2A)”.
- (7) In paragraph (3B)(17)—
 - (a) omit “(a) to (f) or (2A)”, and
 - (b) for “£90,000 of savings” substitute “£25,000 of savings or 25% of the total savings, whichever is the less”.
- (8) For paragraph (3C)(18) substitute—

“(3C) The members of a fund-holding practice shall not in any one financial year apply savings for the purposes specified in paragraph (2) of any amount greater than £25,000 or 25% of the total savings, whichever is the less.”.
- (9) After paragraph (3C) insert—

“(3D) In paragraphs (3B) and (3C) “total savings” means the total savings of the practice at the end of the most recent financial year, excluding any amount of savings which, at that date, the members of the fund-holding practice have entered a binding obligation to apply or received consent from the Health Authority to apply.”.

Amendment of regulation 25A of the principal Regulations

23. In regulation 25A of the principal Regulations (redundancy payments)(19), in paragraph (1), omit “22 or”.

Amendment of regulation 26 of the principal Regulations

24. In regulation 26 of the principal Regulations (recovery of misapplied sums), in paragraph (1) omit “19,” and “22,”.

Amendment of Schedule 1 to the principal Regulations

- 25.** In Schedule 1 to the principal Regulations (conditions for obtaining recognition)—
- (a) omit paragraph 1; and
 - (b) in paragraph 6(20), for “, in the case of standard fund-holding practices in Part I, and in the case of community fund-holding practices in Part II, of” substitute “in”.

Amendment of Schedule 2 to the principal Regulations

26.—(1) Schedule 2 to the principal Regulations (conditions for continuing recognition) is amended as follows.

- (2) Omit paragraphs 1 and 2.
- (3) In paragraph 5, for “19, 20, 22, 23, 24 and 25” substitute “20, 23, 24, 24A, 25 and 25A”.
- (4) In paragraph 15(21), for “, in the case of standard fund-holding practices in Part I, and in the case of community fund-holding practices in Part II, of” substitute “in”.

(14) Paragraph (2A) was inserted by S.I. 1997/747, regulation 14(3).

(15) Paragraph (2B) was inserted by S.I. 1997/747, regulation 14(3).

(16) Paragraph (3) was substituted by S.I. 1997/1678 and amended by S.I. 1998/693.

(17) Paragraph (3B) was inserted by S.I. 1998/693, regulation 11(4).

(18) Paragraph (3C) was inserted by S.I. 1998/693, regulation 11(4).

(19) Regulation 25A was inserted by S.I. 1998/693, regulation 10(3).

(20) Paragraph 6 was inserted by S.I. 1998/693, regulation 7.

(21) Paragraph 15 was inserted by S.I. 1998/693, regulation 8.

(5) After paragraph 15 add the following—

“16. There shall be no changes to the membership of the fund-holding practice, either by addition of new members or withdrawal of existing members, except in circumstances of death or retirement of a member.

17. The members of the practice shall not let the fund-holding account become overdrawn.”.

New Schedule 3 to the principal Regulations

27. After Schedule 2 to the principal Regulations, add the new Schedule 3 set out in the Schedule to these Regulations.

Revocations

28. Regulations 2, 8, 19 and 22 of the principal Regulations are hereby revoked.

Saving

29.—(1) The amendments made by regulation 13 of these Regulations do not affect the members or former members of any fund-holding practice from which a member has withdrawn before 1st April 1999 in circumstances other than death or retirement, provided that the notice required in accordance with regulation 9(2)(a) of the principal Regulations has been sent before 1st April 1999; and in such cases regulation 9 of the principal Regulations shall continue to apply in relation to members and former members of such practices, as if the amendments referred to above had not been made.

(2) The amendment made by regulation 22 of these Regulations does not affect any consent given, or appeal right which arose, before Part III of these Regulations came into force, or the application of savings for any of the purposes specified in paragraph (2)(a) to (f) or paragraph (2A) of regulation 25 of the principal Regulations pursuant to a consent given before Part III came into force; and in such cases regulations 24, 25 and 25A of the principal Regulations shall continue to apply in relation to that consent, or to the application of those savings, as if the amendments referred to above had not been made.

(3) The amendments made by regulation 22(7)(b), (8) and (9) of these Regulations shall not apply to the members of any fund-holding practice whose relevant Health Authority is in Wales, which has ceased to be a recognised fund-holding practice with effect from midnight on 31st March 1999; and in such cases regulation 25(3B) and (3C) shall continue to apply to the application of savings, as if the amendments referred to above had not been made.

(4) In respect of any part of an allotted sum applied before 1st April 1999, regulation 26 shall continue to have effect as though the amendments made by regulations 24 and 28 of these Regulations had not been made, notwithstanding that the Secretary of State does not make his determination until on or after that date.