
STATUTORY INSTRUMENTS

2010 No. 578

**The National Health Service (Primary Medical Services)
(Miscellaneous Amendments) Regulations 2010**

PART 3

AMENDMENT OF THE PMS AGREEMENTS REGULATIONS

Amendment of regulation 2

7. In regulation 2(1) (interpretation) of the PMS Agreements Regulations—
- (a) omit the definitions of “FHSAA” and “medical officer”; and
 - (b) in the definition of “national disqualification”, in sub-paragraph (c), for “is treated as a national disqualification by the FHSAA” substitute “was treated as a national disqualification by the Family Health Services Appeal Authority”.

Amendment of regulation 5

8. In regulation 5 (general condition relating to all agreements) of the PMS Agreements Regulations, in paragraph (3)(j)(ii), after “(powers of the Court of Session to deal with management of charities)”, insert “or under section 34 of the Charities and Trustee Investment (Scotland) Act 2005 (powers of Court of Session)”.

Amendment of regulation 12

9. In regulation 12 (certificates) of the PMS Agreements Regulations, for paragraph (2), substitute—

“(2) The exception in paragraph (1)(a) does not apply where the certificate is issued in accordance with regulation 2(1) of the Social Security (Medical Evidence) Regulations 1976 (evidence of incapacity for work, limited capability for work and confinement) or regulation 2(1) of the Statutory Sick Pay (Medical Evidence) Regulations 1985 (medical information).”.

Amendment of Schedule 5

10.—(1) Schedule 5 (other contractual terms) of the PMS Agreements Regulations is amended as follows.

- (2) After paragraph 2A (telephone services), insert—

“Cost of relevant calls

2B.—(1) The contractor must not enter into, renew or extend a contract or other arrangement for telephone services unless it is satisfied that, having regard to the arrangement

as a whole, persons will not pay more to make calls to the practice than they would to make equivalent calls to a geographical number.

(2) Where a contractor is party to an existing contract or other arrangement for a telephone service under which persons making relevant calls to the practice call a number which is not a geographical number, the contractor must comply with sub-paragraph (3).

(3) The contractor must—

- (a) before 1st April 2011, review the arrangement and consider whether, having regard to the arrangement as a whole, persons pay more to make relevant calls than they would to make equivalent calls to a geographical number; and
- (b) if the contractor so considers, take all reasonable steps, including in particular considering the matters specified in sub-paragraph (4), to ensure that, having regard to the arrangement as a whole, persons will not pay more to make relevant calls than they would to make equivalent calls to a geographical number.

(4) The matters referred to in sub-paragraph (3) are—

- (a) varying the terms of the contract or arrangement;
- (b) renegotiating the terms of the contract or arrangement; and
- (c) terminating the contract or arrangement.

(5) If, despite taking all reasonable steps referred to in sub-paragraph (3)(b), it has not been possible to ensure that, having regard to the arrangement as a whole, persons will not pay more to make relevant calls to the practice than they would to make equivalent calls to a geographical number, the contractor must consider introducing a system under which if a caller asks to be called back, the contractor will do so at the contractor's expense.

(6) In this paragraph—

- (a) “existing contract or other arrangement” means a contract or arrangement that was entered into prior to 1st April 2010 and which remains in force on 1st April 2010;
- (b) “geographical number” means a number which has a geographical area code as its prefix; and
- (c) “relevant calls” means calls—
 - (i) made by patients to the practice for any reason related to services provided under the agreement, and
 - (ii) made by persons, other than patients, to the practice in relation to services provided as part of the health service.”

(3) For paragraph 9 (standards for out of hours services), substitute the following—

“Standards for out of hours services

9. A contractor which—

- (a) provides out of hours services to registered patients of another contractor or provider of essential services (or their equivalent); or
- (b) has contracted to provide out of hours services to patients to whom it provides essential services under the agreement,

must, in the provision of such services, meet the quality requirements set out in the document entitled “National Quality Requirements in the Delivery of Out of Hours Services” published on 20th July 2006⁽¹⁾.”

(1) The guidance can be accessed on the following website: <http://www.dh.gov.uk>.

(4) In paragraph 19 (removal from the list at the request of the contractor), in sub-paragraph (1), for “applicant’s” substitute “patient’s”.

(5) In paragraph 44 (excessive prescribing), in sub-paragraph (1) for “drugs and appliances” substitute “drugs, medicines or appliances”.

(6) In paragraph 70 (patient records), in sub-paragraph (5)(a), for the words from ““General Medical” to the end substitute ““General Practice Systems of Choice Level 2””.

(7) For paragraph 76 (reports to a medical officer), substitute—

“Provision of information to a medical officer etc.

76.—(1) The contractor must, if satisfied that the patient consents—

- (a) supply in writing to any person specified in sub-paragraph (3), within such reasonable period as that person may specify, such clinical information as any of the persons mentioned in sub-paragraph (3)(a) to (d) considers relevant about a patient to whom the contractor or a person acting on behalf of the contractor has issued or has refused to issue a medical certificate; and
- (b) answer any inquiries by any person mentioned in sub-paragraph (3) about—
 - (i) a prescription form or medical certificate issued or created by, or on behalf of, the contractor, or
 - (ii) any statement which the contractor or a person acting on behalf of the contractor has made in a report.

(2) For the purposes of being satisfied that a patient consents, a contractor may rely on an assurance in writing from any person mentioned in sub-paragraph (3) that the consent of the patient has been obtained, unless the contractor has reason to believe that the patient does not consent.

(3) For the purposes of sub-paragraph (1) and (2), the persons are—

- (a) a medical officer;
- (b) a nursing officer;
- (c) an occupational therapist;
- (d) a physiotherapist; or
- (e) an officer of the Department for Work and Pensions who is acting on behalf of, and at the direction of, any person specified in paragraphs (a) to (d).

(4) In this paragraph—

- (a) “medical officer” means a medical practitioner who is—
 - (i) employed or engaged by the Department for Work and Pensions, or
 - (ii) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions;
- (b) “nursing officer” means a health care professional who is registered on the Nursing and Midwifery Register and—
 - (i) employed or engaged by the Department for Work and Pensions, or
 - (ii) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions;
- (c) “occupational therapist” means a health care professional who is registered in the part of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001 relating to occupational therapists and—

- (i) employed or engaged by the Department for Work and Pensions, or
 - (ii) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions; and
 - (d) “physiotherapist” means a health care professional who is registered in the part of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001 relating to physiotherapists and—
 - (i) employed or engaged by the Department for Work and Pensions, or
 - (ii) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions.”.
- (8) In paragraph 85 (entry and inspection by the Commission for Healthcare Audit and Inspection)

- (a) for “Commission for Healthcare Audit and Inspection”, substitute “Care Quality Commission”, and
- (b) after “(right of entry)”, insert “, as modified by paragraph 15 of Schedule 3 to the Health and Social Care Act 2008 (Commencement No. 9, Consequential Amendments and Transitory, Transitional and Saving Provisions) Order 2009 and section 62 of the Health and Social Care Act 2008 (entry and inspection).”.

and in the heading to that paragraph, for “Commission for Healthcare Audit and Inspection”, substitute “Care Quality Commission”.

- (9) For paragraph 100 (termination by notice) substitute—

“Termination by serving notice

100.—(1) The contractor or the relevant body may terminate the agreement by serving notice in writing on the other party at any time.

(2) Where a notice is served pursuant to sub-paragraph (1) and the period of notice in relation to such termination (which must be a period of not less than six months) has previously been agreed between the parties and provided for in the agreement, the date of termination under the notice must be calculated in accordance with such agreed period of notice, and the agreement will terminate on the date so calculated.

(3) Where a notice is served pursuant to sub-paragraph (1) and no period of notice has previously been agreed between the parties and provided for in the agreement in relation to such termination, the period of notice required must be six months and the date of termination under the notice must be calculated accordingly, and the agreement will terminate on the date so calculated.

(4) This paragraph is without prejudice to any other rights to terminate the agreement which the contractor and the relevant body may have.”.

- (10) In paragraph 101 (late payment notices)—

- (a) in sub-paragraph (1), for “regulation 12” substitute “regulation 13”; and
- (b) in sub-paragraph (4), omit “Paragraph 100 and”.

- (11) Omit paragraph 102 (termination by the relevant body: general provisions).

(12) In paragraph 105(3)(j)(ii) (which relates to termination by the relevant body on fitness grounds), after “(powers of the Court of Session to deal with the management of charities)”, insert “or under section 34 of the Charities and Trustee Investment (Scotland) Act 2005 (powers of Court of Session)”.

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