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STATUTORY INSTRUMENTS

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**2017 No. 908**

**The National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) Regulations 2017**

**PART 3**

**Amendment of the PMS Agreements Regulations**

**Insertion of new paragraph 18A into Schedule 2 to the PMS Agreements Regulations**

**8.** After paragraph 18 of Schedule 2 to the PMS Agreements Regulations (inclusion in list of patients – armed forces personnel) insert—

**“Inclusion in list of patients: detained persons**

**18A.**—(1) A contractor must, if the contractor’s list of patients is open, include a person to whom sub-paragraph (2) applies (a “detained person”) in that list and paragraph 28(1)(b) does not apply in respect of a detained person who is included in the contractor’s list of patients by virtue of this paragraph.

(2) This sub-paragraph applies to a person who—

- (a) is serving a term of imprisonment of more than two years, or more than one term of imprisonment totalling, in the aggregate, more than two years;
- (b) is not registered as a patient with a provider of primary medical services; and
- (c) makes an application under this paragraph in accordance with sub-paragraph (3) to be included in the contractor’s list of patients by virtue of sub-paragraph (1) or (6) before the scheduled release date.

(3) An application under sub-paragraph (2)(c) may be made during the period commencing one month prior to the scheduled release date and ending 24 hours prior to that date.

(4) Subject to sub-paragraphs (5) and (6), a contractor may only refuse an application under sub-paragraph (2)(c) if the contractor has reasonable grounds for doing so which do not relate to the applicant’s age, appearance, disability or medical condition, gender or gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sexual orientation or social class.

(5) The reasonable grounds referred to in sub-paragraph (4) may include the ground that the applicant will not, on or after the scheduled release date, live in the contractor’s practice area or does not intend to live in that area.

(6) Where a contractor’s list of patients is closed, the contractor may, by virtue of this sub-paragraph, accept an application under sub-paragraph (2)(c) if the applicant is an immediate family member of a registered patient.

- (7) Where a contractor accepts an application from a person under sub-paragraph (2)(c) for inclusion in the contractor’s list of patients, the contractor—
- (a) must give notice in writing to the provider of the detained estate healthcare service or to the Board of that acceptance as soon as possible; and
  - (b) is not required to provide primary medical services to that person until after the scheduled release date.
- (8) The Board must, on receipt of a notice given under sub-paragraph (7)(a)—
- (a) include the applicant in the contractor’s list of patients from the date notified to the Board by the provider of the detained estate healthcare service; and
  - (b) give notice in writing to the provider of the detained estate healthcare service of that acceptance.
- (9) Where a contractor refuses an application made under sub-paragraph (2)(c), the contractor must give notice in writing of that refusal, and the reasons for it, to the provider of the detained estate healthcare service or to the Board before the end of the period of 14 days beginning with the date of its decision to refuse.
- (10) The contractor must—
- (a) keep a written record of—
    - (i) the refusal of an application under sub-paragraph (2)(c), and
    - (ii) the reasons for that refusal; and
  - (b) make such records available to the Board on request.
- (11) In this paragraph—
- (a) “the detained estate healthcare service” means the healthcare service commissioned by the Board in respect of persons who are detained in prison or in other secure accommodation by virtue of regulations made under section 3B(1)(c) of the Act (Secretary of State’s power to require Board to commission services)<sup>(1)</sup>; and
  - (b) “the scheduled release date” means the date on which the person making an application under sub-paragraph (2)(c) is due to be released from detention in prison.”.

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(1) The regulations made by the Secretary of State under section 3B(1)(c) of the Act in relation to prisoners and other detainees are contained in regulation 10 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 (S.I. 2012/2996). Regulation 10 was amended by S.I. 2013/261 and S.I. 2014/452.