
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 131

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Fund-holding Practices) Amendment Regulations (Northern Ireland) 1996

Made - - - - *29th March 1996*

Coming into operation *1st April 1996*

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 17(2) and (3), 18(4), 19 and 20 of the Health and Personal Social Services (Northern Ireland) Order 1991⁽¹⁾ and Article 90(7) of the Health and Personal Social Services (Northern Ireland) Order 1972⁽²⁾ and of all other powers enabling it in that behalf, with the approval of the Department of Finance and Personnel in so far as regulation 15(8) is concerned, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Fund-holding Practices) Amendment Regulations (Northern Ireland) 1996 and shall come into operation on 1st April 1996.

(2) In these Regulations, “the principal Regulations” means the Health and Personal Social Services (Fund-holding Practices) Regulations (Northern Ireland) 1993⁽³⁾.

Amendment of regulation 1 of the principal Regulations

2. In regulation 1(2) of the principal Regulations (interpretation)—

(a) after the definition of “fund-holding practice” insert—

““list size” means the number of individuals on the list of patients of a medical practitioner who provides general medical services in accordance with arrangements under Article 56 of the principal Order⁽⁴⁾”; and

(b) after the definition of “recognised fund-holding practice” insert—

““savings” shall be construed in accordance with regulation 21;”.

(1) S.I. 1991/94 (N.I. 1)

(2) S.I. 1972/1265 (N.I. 14); Article 90(7) is substituted by S.I. 1991/194 (N.I. 1) Article 22

(3) S.R. 1993 No. 142

(4) Article 56 is amended by S.I. 1978/1907 (N.I. 26); S.I. 1981/432; S.I. 1986/2229 (N.I. 24); S.I. 1988/2249 (N.I. 24) and S.I. 1991/194 (N.I. 1)

Amendment of regulation 4 of the principal Regulations

3. In regulation 4 of the principal Regulations (grant of recognition as a fund-holding practice)—
- (a) in paragraph (2), at the beginning insert “Subject to paragraph (3),”; and
 - (b) after paragraph (2), insert—
 - “(3) For the purposes only of the payment and application of the management allowance referred to in regulation 19A, recognition shall take effect on the date on which it was granted.”.

Amendment of regulation 8 of the principal Regulations

4. For regulation 8 of the principal Regulations (withdrawal or death of a member of a fund-holding practice), substitute the following regulation—

“8.—(1) Where a member of a fund-holding practice retires or dies, the recognition of the remaining members of the fund-holding practice shall not be affected provided that the conditions specified in Schedule 2 in relation to the practice in question continue to be fulfilled in relation to the practice.

(2) Where a member of a fund-holding practice withdraws from the fund-holding practice in circumstances other than death or retirement—

- (a) he shall give notice to the Health and Social Services Board stating the date on which the withdrawal is to take or took effect; and
- (b) the Health and Social Services Board shall forward the notice to the Department and paragraphs (3) to (6) shall apply.

(3) Where the remaining members of the fund-holding practice or one or more members who withdrew from the fund-holding practice wish to continue as a recognised fund-holding practice, they shall apply to the Department for recognition as a fund-holding practice in accordance with regulation 2; and in those circumstances—

- (a) regulations 3 and 4(2) shall not apply in the case of such an application;
- (b) where all the medical practitioners making the application have been members of a recognised fund-holding practice for at least one year, paragraph 1 of Schedule 1 shall not apply;
- (c) subject to regulation 13, they shall continue to be recognised or, as the case may be, shall be treated as recognised until the application is determined;
- (d) if, as a result, there is more than one fund-holding practice treated as though it were recognised by virtue of sub-paragraph (c), the allotted sum payable in respect of the current financial year and, subject to paragraph (5), any accumulated savings of the original practice shall be divided between them in proportions calculated by reference to the respective list sizes of the members of the practices; and
- (e) where any application under this paragraph is refused, regulation 15 shall apply as if the refusal to grant recognition had been a removal of recognition.

(4) A member of a fund-holding practice who is a partner of another member of the practice may not withdraw from the fund-holding practice unless he also ceases to be a partner of that other member.

(5) Where a member of a fund-holding practice (in this paragraph and in paragraph (6) referred to as “the former member”) withdraws from the practice and—

- (a) he continues to be included in the medical list of the Health and Social Services Board, and
- (b) on the date on which the withdrawal takes effect, there are savings in the fund-holding account,

such proportion of those savings as the remaining members of the fund-holding practice and the former member may agree (or where they do not agree, a proportion calculated by reference to their respective list sizes) shall be transferred to the Health and Social Services Board.

(6) The Health and Social Services Board shall apply that part of the savings transferred to it as mentioned in paragraph (5) in accordance with regulation 21 for such purposes as the former member of the fund-holding practice may require, until such time as he ceases to retain responsibility for at least half the patients who were on his list at the time of his withdrawal from the fund-holding practice.”.

Amendment of regulation 10 of the principal Regulations

5. In regulation 10 of the principal Regulations (consequences of renunciation of recognition)—

(a) after paragraph (2) insert—

“(2A) Where, on the date when the renunciation of recognition takes effect, the members of the fund-holding practice have any outstanding liabilities and the entire allotted sum payable in respect of the financial year ending on that date has been spent, such liabilities shall be met from any accumulated savings.”;

(b) for paragraph (4) substitute the following—

“(4) Subject to paragraph 4(A), if, after a notice under paragraph (3) has been sent, part of the allotted sum remains in the fund-holding account, the former fund-holding practice shall apply that sum as specified in regulation 21 for the benefit of the patients of the members of the former fund-holding practice in such proportions as the members of the former fund-holding practice may agree or, where they do not agree, in proportion to the respective list sizes of the members of the former fund-holding practice.”;

(c) after paragraph (4) insert—

“(4A) Where recognition is renounced before it has taken effect in accordance with regulation 4(2), the former fund-holding practice shall pay any part of the management allowance mentioned in regulation 19A which remains in the fund-holding account to the Health and Social Services Board.”.

Amendment of regulation 16 of the principal Regulations

6. In regulation 16 of the principal Regulations (payment for drugs, medicines and listed appliances)—

(a) for paragraph (2)(b) substitute—

“(b) an amount representing a percentage of the total basic ingredient cost of the drugs, medicines or listed appliances, which percentage the Agency, in its calculation of the remuneration payable to pharmacists in accordance with the Drug Tariff, has determined is the total discount value applicable to the drugs, medicines or listed appliances supplied in the first half of the previous financial year, divided by the total basic ingredient cost of the drugs, medicines or listed appliances supplied in that period multiplied by 100; plus”;

(b) for paragraph (2)(c) substitute—

“(c) an amount representing a percentage of the total basic ingredient cost of the drugs, medicines or listed appliances, which percentage the Agency, in its calculation of the remuneration payable to pharmacists in accordance with the Drug Tariff, has determined is the total cost of the containers or packaging in which the drugs, medicines or listed appliances were supplied in the first half of the previous financial year divided by the total basic ingredient cost of the drugs, medicines or listed appliances supplied in that period multiplied by 100;”;

(c) delete paragraphs (5) and (6);

(d) in paragraph (8), after the definition of “manufacturer’s list price” insert—

““Northern Ireland Central Services Agency” means the agency constituted by Article 26 of the Health and Personal Social Services (Northern Ireland) Order 1972.”.

Amendment of regulation 18 of the principal Regulations

7. In regulation 18 of the principal Regulations (limit on provision of goods and services), substitute “£6,000” for “£5,000”.

Amendment of regulation 19 of the principal Regulations

8. For regulation 19 of the principal Regulations (payment of salaries), substitute the following regulation—

“Payments to staff

19.—(1) Subject to paragraphs (2), (3) and (4), the members of a fund-holding practice may apply the allotted sum for the purpose of making payments to those employees of members of the practice who are employed—

(a) to provide treatment to the patients of the members of the practice; or

(b) in connection with the management or the administration of the practice.

(2) The payments referred to in paragraph (1) may include only those payments which could be made by a Health and Social Services Board in accordance with paragraph 52 of the Statement published in accordance with regulation 32 of the Health and Personal Social Services (General Medical and Pharmaceutical Services) Regulations (Northern Ireland) 1973⁽⁵⁾ as it has effect on the date these Regulations are made.

(3) Where a Health and Social Services Board has, before the date on which the members of a fund-holding practice were granted recognition as a fund-holding practice, reimbursed a member of the practice in respect of a proportion of the expenses of employing a member of his staff, then the members of the fund-holding practice may apply the allotted sum for the purpose of paying, in respect of periods after that date, only that proportion of the same expenses of employing that person or of any other person employed in place of that employee to perform substantially the same functions.

(4) The members of a fund-holding practice may apply the allotted sum for the purpose of paying fees to persons for providing, on the practice premises, services which are necessary for the proper treatment of individuals who are on the lists of patients of the members of the practice.

(5) S.R. & O. (N.I.) 1973 No. 421; relevant amending regulations are S.R. 1975 No. 180, S.R. 1989 No. 454 and S.R. 1995 No. 487

(5) The members of a fund-holding practice shall not apply the allotted sum for the purpose of employing or engaging the services of a medical practitioner except—

- (a) for the purpose of providing to individuals who are on the lists of patients of members of the practice such services as are included in the list mentioned in regulation 17(2); or
- (b) as mentioned in regulation 19A(7)(c).

(6) The members of a fund-holding practice may apply the allotted sum for the purpose of training employees of members of the practice, provided that the training will be beneficial to the patients of the members of the practice and its cost represents value for money.”.

Payment for management expenses

9. After regulation 19 (payments to staff), insert the following regulation—

“Payment for management expenses

19A.—(1) Where the allotted sum is determined wholly or partly by reference to the management expenses of the members of the fund-holding practice, the amount so determined (in this regulation referred to as the “management allowance”) may be applied in accordance with this regulation.

(2) The amount applied out of the allotted sum for the purposes of management expenses shall not exceed the management allowance.

(3) Where the members of the practice propose to spend any part of the management allowance in accordance with sub-paragraph (7)(d) for the purpose of buying computers, or sub-paragraph (7)(i), they shall first obtain the written consent of the Health and Social Services Board.

(4) The Health and Social Services Board shall consent to the fund-holding practice’s proposals to buy computers provided it is satisfied that the equipment proposed is suitable for the needs of the fund-holding practice and represents value for money.

(5) The Health and Social Services Board shall consent to the fund-holding practice’s proposals to spend its management allowance on rent provided it is satisfied that existing premises are being properly used, the proposed office accommodation is suitable and that the proposed rent represents value for money.

(6) Where the cost of a computer is less than that agreed with the Health and Social Services Board, any savings shall be spent only in accordance with regulation 21.

(7) For the purposes of this regulation, “management expenses” are—

- (a) the cost of employing staff in connection with the management of the allotted sum;
- (b) the cost of training members of the practice or their staff in connection with the management of the allotted sum;
- (c) the cost, not exceeding such sum as the Department, in its determination of the allotted sum payable to the members of the fund-holding practice under Article 18(1) of the Order, determined was expected to be required to meet the cost of either—
 - (i) employing or engaging (as an assistant or deputy) a registered medical practitioner to provide general medical services to the patients of a member of the practice who is engaged in the management of the allotted sum, or

- (ii) paying a member of the practice for his time in connection with the management of the allotted sum;
- (d) the cost of acquiring office equipment (including computers);
- (e) the upkeep and running costs of office equipment required for the purposes of the management of the allotted sum, including computer hardware and software running costs;
- (f) the cost of specialist advice required in connection with the management of the allotted sum;
- (g) the cost of minor internal modifications to any premises from which the members of the practice carry on their practice which are required to provide office accommodation for staff employed in connection with the management of the allotted sum;
- (h) office expenses, including postage, stationery and telephone charges, which are necessarily incurred in connection with the management of the allotted sum; and
- (i) the rent payable on office accommodation used by staff employed in connection with the management of the allotted sum.”.

Amendment of regulation 20 of the principal Regulations

10. For regulation 20 of the principal Regulations (payments to a member of a fund-holding practice), substitute the following regulation—

“**20.**—(1) The members of a fund-holding practice may apply the allotted sum for the purpose of paying a medical practitioner who is a member of the practice but only—

- (a) in accordance with an arrangement made in pursuance of paragraph (2);
- (b) pursuant to regulation 19A(7)(c)(ii); or
- (c) pursuant to regulation 21(2)(d) or (e).

(2) Subject to paragraphs (3) and (4), the members of a fund-holding practice may, with the written consent of the Health and Social Services Board, enter into an arrangement with a medical practitioner who is a member of the practice for the provision by that medical practitioner of services which are included in Part 2 of the list mentioned in regulation 17(2) to patients who are on the lists of patients of members of the practice.

(3) The Health and Social Services Board shall not consent to an arrangement made under paragraph (2) unless it is satisfied that—

- (a) the services to be provided are included in Part 2 of the list mentioned in regulation 17(2);
- (b) the medical practitioner with whom the arrangement is to be made to provide those services is suitably qualified, competent and experienced;
- (c) the facilities, including premises, for the provision of those services are suitable; and
- (d) the payments which it is proposed shall be made in respect of the provision of those services—
 - (i) are reasonable,
 - (ii) represent value for money, and
 - (iii) are to be made directly to the medical practitioner who provides the services or to the partnership of which he is a member and not to any third party.

(4) Where the members of a practice have obtained the consent of the Health and Social Services Board under paragraph (2) they shall give notice to that Health and Social Services Board of any change in the matters specified in paragraph (3).

(5) Where a Health and Social Services Board receives notice as mentioned in paragraph (4), it shall either confirm or withdraw its consent.”.

Amendment of regulation 21 of the principal Regulations

11.—(1) For regulation 21 of the principal Regulations (savings from the allotted sum), substitute the following regulation—

“**21.**—(1) The members of a fund-holding practice may discharge their obligations under regulations 16 and 17 and exercise their powers under regulations 19, 19A and 20 in such a way as to take into account any benefit to individuals on the lists of patients of the members of the practice which, in their opinion, would be derived from making savings to be applied in accordance with the following provisions of this regulation; and regulations 16, 17, 19, 19A and 20 shall be construed accordingly.

(2) Subject to paragraph (3), where the accounts for a financial year of members of a fund-holding practice have been audited, the members of a fund-holding practice may, within the period of four years after the end of that financial year, continue to apply any part of the allotted sum paid to them in respect of that financial year for the purposes specified in regulations 16, 17, 19 and 20 and, in addition, with the written consent of the Health and Social Services Board, for 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
 - (iii) enables the practice to be managed more effectively and efficiently; 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, and
 - (ii) building an extension provided that no acquisition of land is involved; or
- (d) the purchase of services in connection with an audit of clinical practice which relates to any of the goods and services which are included in the list of goods and services mentioned in regulation 17(2); or
- (e) commissioning research which relates to any of the goods and services included in the list mentioned in regulation 17(2); or
- (f) training for members of the fund-holding practice which is required in connection with their membership of the fund-holding practice.

(3) The Health and Social Services Board shall consent to the application of any part of an allotted sum for any of the purposes specified in paragraph (2)(a) to (f) if it is satisfied that the expenditure would—

- (a) be for the benefit of the patients of the members of the practice; and
- (b) represent value for money.

(4) Where the Health and Social Services Board refuses its consent under paragraph (3), it shall send to the members of the fund-holding practice a notice stating the reasons for its refusal.”.

Amendment of regulation 22 of the principal Regulations

12. In regulation 22(1) of the principal Regulations (recovery of misapplied amounts), after “19,” insert “19A,”.

Amendment of Part VI of the principal Regulations

13. In Part VI (Miscellaneous) of the principal Regulations, after regulation 23, insert the following regulation—

“Transfer of functions

24.—(1) With effect from 1st April 1996, the function of the Department under Article 18(1) of the Order of being liable to pay a sum to the members of a fund-holding practice shall become the function of a Health and Social Services Board.

(2) The Health and Social Services Board which is to exercise the function referred to in paragraph (1) in relation to the members of any existing fund-holding practice is the relevant Health and Social Services Board.

(3) Article 18 of the Order shall have effect subject to the following modification—

(a) in subsection (1), for the word “Department” where it first occurs substitute the words “Health and Social Services Board”.”.

Amendment of Schedule 1 to the principal Regulations

14.—(1) Schedule 1 to the principal Regulations (conditions for obtaining recognition as a fund-holding practice) is amended as follows.

(2) In paragraph 1 for “7,000” in each place where it occurs substitute “5,000”.

(3) In paragraph 1 after “recognition would take effect” insert “in accordance with regulation 4(2)”.

(4) Paragraph 3 is omitted.

(5) For paragraph 6 substitute—

“(6) Where the members of the practice are not partners in a single partnership, the members of the practice have entered into an agreement, approved by the Health and Social Services Board, which—

(a) provides that any act of a member of the practice with respect to the allotted sum binds the other members of the practice; and

(b) provides for the determination of how much of the allotted sum, including any savings, is to be allocated to each member of the practice.”.

Amendment of Schedule 2 to the principal Regulations

15.—(1) Schedule 2 to the principal Regulations (conditions for continuing recognition as a fund-holding practice) is amended as follows.

(2) For paragraph 1 substitute—

“1. For the first year following 1st April on which recognition as a fund-holding practice took effect in accordance with regulation 4(2), there are at least 5,000 patients on the lists of patients of the members of the practice.”

(3) Paragraph 2 is omitted.

(4) In paragraph 4 after “19,” insert “19A,”.

(5) For paragraph 5 substitute—

“5. The members of the practice are, and in the opinion of the Department will continue to be, capable of managing the allotted sum effectively and efficiently.”

(6) In paragraph 10—

(a) for “before the end of each month,” substitute “within six weeks following the end of each month,”;

(b) for “the preceding” substitute “that”;

(c) in sub-paragraph (ii) for “preceding month,” substitute “month in question,”.

(7) After paragraph 10 insert—

“10A. The members of the practice send to the Health and Social Services Board—

(a) before the beginning of each financial year, a practice plan outlining how the practice proposes to spend its allotted sum; and

(b) by 30th June in each year, an annual report summarising how its allotted sum has been spent in the most recent financial year.”

(8) In paragraph 11 for “within six weeks of the end of the financial year” substitute “within two months of the end of the financial year”.

(9) After paragraph 12 insert—

“13. The members of a fund-holding practice shall secure that the procedure to investigate complaints established and operated under paragraph 11B of Schedule 1 to the Health and Personal Social Services (General Medical and Pharmaceutical Services) Regulations (Northern Ireland) 1973(6) applies in relation to complaints about their use of the allotted sum and they shall cooperate as required by paragraph 11C of those terms of service with the investigation of such complaints by Health and Social Services Boards.”

Revocation of Schedule 3 to the principal Regulations

16. Schedule 3 to the principal Regulations (services in respect of which a member of a fund-holding practice may receive payment) is hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services on

L.S.

29th March 1996.

J. Dixon
Assistant Secretary

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

The Department of Finance and Personnel hereby approves the amendment to paragraph 11 of Schedule 2 as contained in regulation 15(8).

Sealed with the Official Seal of the Department of Finance and Personnel on

L.S.

29th March 1996.

C. P. Moore
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations).

These Regulations amend the Health and Personal Social Services (Fund-holding Practices) Regulations (Northern Ireland) 1993, which regulate the recognition and operation of fund-holding practices.

Regulation 4 amends regulation 8 of the principal Regulations to provide that where a member of a fund-holding practice withdraws from the practice, a part of any savings accumulated by the fund-holding practice may be applied by the Health and Social Services Board for the benefit of his patients.

Regulation 5 amends regulation 10 of the principal Regulations to require a former fund-holding practice to apply any accumulated savings to discharge its outstanding liabilities. It also provides that where such liabilities have been discharged and any money remains in the fund-holding account, the former fund-holding practice shall apply that money as if it were savings.

Regulation 7 amends regulation 18 of the principal Regulations to increase from £5,000 to £6,000 the amount which a fund-holding practice may spend on the provision of goods and services to any one individual in any financial year.

Regulation 8 amends regulation 19 of the principal Regulations to make it clear that the allotted sum can be used for employment costs other than salaries. It can be used for the same costs which Health and Social Services Boards can pay to doctors in connection with the provision of general medical services. These are set out in the Statement referred to in regulation 19(2).

Regulation 9 provides for the payment of a management allowance to be spent on certain management expenses.

Regulation 10 amends regulation 20 of the principal Regulations to extend the purposes for which members of a fund-holding practice may make payments to themselves out of their allotted sum.

Regulation 11 amends regulation 21 of the principal Regulations to extend the purposes on which a fund-holding practice may spend savings and introduces a requirement that the Health and Social Services Board consent to such expenditure.

Regulation 13 provides for the transfer to the Health and Social Services Boards of the Department's function under Article 18(1) of the 1991 Order of being liable to pay a sum to the members of a fund-holding practice.

Regulations 14 and 15 amend the Schedules to the principal Regulations to reduce the list size requirement for recognition as a fund-holding practice from 7,000 to 5,000, and to remove the requirement that a fund-holding practice may not include two members who practise in partnerships whose list size exceeds 7,000. Schedule 2 to the principal Regulations is also amended to require the members of a fund-holding practice to send Health and Social Services Boards information about proposed and past expenditure of their allotted sums. Schedule 3 to the principal Regulations is revoked.

The Regulations also make a number of amendments which are minor in nature or are consequential drafting amendments.