

2013 No. 301

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (General Medical Services Contracts) (Amendment No. 2) Regulations (Northern Ireland) 2013

Made - - - - *19th December 2013*

Coming into operation- - *27th December 2013*

The Department of Health, Social Services and Public Safety^(a) in conjunction with the Department of Finance and Personnel, makes the following Regulations in exercise of the powers conferred by Articles 57A, 57E, 106 and 107(6) of the Health and Personal Social Services (Northern Ireland) Order 1972^(b).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Health and Personal Social Services (General Medical Services Contracts) (Amendment No. 2) Regulations (Northern Ireland) 2013 and shall come into operation on 27th December 2013.

(2) In these Regulations “the principal Regulations” means the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004^(c).

Amendment of regulation 2 of the principal Regulations

2.—(1) Regulation 2 (Interpretation) shall be amended as provided in the following paragraphs.

(2) Insert the following definitions in the appropriate place—

““the Directive” means Directive 2011/24 EU of the European Parliament and of the Council of 9th March 2011 on the application of patients’ rights in cross-border healthcare^(d);

“visiting patient” means—

(a) an individual for whom a member State other than the United Kingdom is the member State of affiliation within the meaning of Article 3(c) of the Directive; and

(b) either—

(i) whom a contractor has accepted under paragraph 15A of Schedule 5 to provide services under regulation 15(3) and (5); or

(a) See S.I. 1999/283 (N.I. 1) Article 3(6).

(b) S.I. 1972/1265 (N.I. 14). Articles 57A, and 57E were inserted by S.I. 2004/311 (N.I. 2), Article 4.

(c) S.R. 2004 No. 140. as amended by S.R. 2004 No. 477, S.R. 2005 No. 230, S.R. 2005 No. 368, S.R. 2006 No. 319 and S.R.2013 No. 59

(d) OJ No. L88, 4.4.2011, p 45

- (ii) who has been assigned to a contractor by the Board under paragraph 32A of Schedule 5 for services under regulation 15(3) and (5).”.

Amendment of regulation 15 of the principal Regulations

3.—(1) Regulation 15 (Essential services) shall be amended as provided in the following paragraphs.

(2) In paragraph (3) for “registered patients and temporary residents”, substitute “registered patients, temporary residents and visiting patients”.

(3) In paragraph (5) for “registered patients and temporary residents”, substitute “registered patients, temporary residents and visiting patients”.

Amendment of Schedule 4 to the principal Regulations

4.—(1) Paragraph 1 (fees and charges) shall be amended as provided in the following paragraphs.

(2) In sub-paragraph (k) replace the full stop with a semi-colon.

(3) After sub-paragraph (k) insert—

“(l) when he treats a visiting patient under regulation 15(3) or (5), the contractor shall be entitled to demand and accept a fee as determined by the Department, if a receipt is provided to that patient and the contractor notifies the Board of the treatment provided;

(m) for prescribing, providing or administering any drug, medicine or appliance to a visiting patient under regulation 15(3) or (5).”.

Amendment of Schedule 5 to the principal Regulations

5.—(1) Schedule 5 (Other contractual terms) to the principal Regulations shall be amended as provided in the following paragraphs.

(2) In paragraph 3 (Attendance outside practice premises) after sub-paragraph (3), insert—

“(4) Notwithstanding anything in this paragraph, the contractor shall not be required to attend on a patient or a visiting patient outside Northern Ireland.”.

(3) After paragraph 15 (Application for inclusion in a list of patients) insert—

“Application to the contractor for regulation 15(3) and (5) services

15A.—(1) The contractor may, if his list of patients is open, accept an application for services under regulation 15(3) and (5) from a person falling within paragraph (a) of the definition of visiting patient.

(2) Subject to sub-paragraph (3), an application under sub-paragraph (1) shall be made in writing, signed by the applicant or a person authorised to sign on his behalf, and delivered to the practice premises.

(3) An application under sub-paragraph (1) may be made—

(a) on behalf of any child by either parent, or in the absence of both parents, the guardian or other adult who has care of the child; or

(b) on behalf of any adult who is incapable of making such an application, or authorising such an application to be made on their behalf, by a relative or the primary carer of that person.

(4) A contractor who accepts an application under sub-paragraph (1) shall notify the Board in writing as soon as possible.

(5) Nothing in this paragraph obliges a contractor to prioritise a person falling within paragraph (a) of the definition of visiting patient to the detriment of other persons.”.

(4) After paragraph 32 (Assignment of patients to lists: open lists), insert—

“Assignment of a person to a contractor for regulation 15(3) and (5) services

32A.—(1) On receipt of a request for services under regulation 15(3) and (5) from a person falling within paragraph (a) of the definition of visiting patient, the Board, having regard to paragraph 34 (a), (b) and (e), shall assign that person to a contractor whose list of patients is open.

(2) A request under sub-paragraph (1) shall be made to the Board in writing.

(3) Where a person has been assigned to a contractor under sub-paragraph (1) the Board shall notify in writing as soon as possible—

- (a) the contractor; and
- (b) that person.

(4) Nothing in this paragraph obliges the Board to prioritise a person falling within paragraph (a) of the definition of visiting patient to the detriment of other persons.”.

(5) In paragraph 40 (Restrictions on prescribing by medical practitioners), after sub-paragraph (3), insert—

“(4) In the course of treating a visiting patient under regulation 15(3) or (5), the contractor shall not order on a prescription form an appliance, drug, medicine or other substance, but may prescribe such appliance, drug, medicine or other substance for that visiting patient under a private arrangement.”.

(6) In paragraph 41 (Restrictions on prescribing by supplementary prescribers)—

(a) after sub-paragraph (2)(d) insert—

“(e) where the patient is a visiting patient, the supplementary prescriber shall prescribe the appliance, drug, medicine or other substance only under a private arrangement.”.

(b) after sub-paragraph (4)(h) insert—

“(i) where the patient is a visiting patient, the supplementary prescriber shall prescribe the appliance, drug, medicine or other substance only under a private arrangement.”.

(7) For paragraph 78 substitute—

“78.—(1) The contractor shall notify the Board in writing of any person other than a registered patient or a person whom the contractor has accepted as a temporary resident to whom he has provided the essential services described in regulation 15(6) or 98) within the period of 28 days beginning on the day that services were provided.

(2) The contractor shall notify the Board in writing of any visiting patient to whom the contractor has provided services under regulation 15(3) or (5) within the period of 28 days beginning on the day that the services were provided.”.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on
19th December 2013

(L.S.)

Heather Stevens

A senior officer of the Department of Health, Social Services and Public Safety

Sealed with the Official Seal of the Department of Finance and Personnel on 19th December 2013

(L.S.)

John McKibbin

A senior officer of the Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004, “the GMS Contract Regulations”, to give effect to Directive 2011/24/EU of the European Parliament and of the Council of 9th March 2011 on the application of patients’ rights in cross-border healthcare, in particular Article 4 (Responsibilities of the Member State of treatment), in domestic law.

Regulation 2 provides a definition of Visiting Patient and highlights that there are two routes by which a person exercising rights under the Directive can become a visiting patient. The first route is under Paragraph 15A of Schedule 5 of the GMS Contract Regulations, (inserted by regulation 5(3) of these Regulations), where the person exercising rights under the Directive is accepted by the contractor for services under regulation 15(3) and (5) of the GMS Regulations, that is to say “essential services”. The second route is under Paragraph 32A of Schedule (5) of the GMS Contract Regulations, (inserted by regulation 5(4) of these Regulations), where the person exercising rights under the Directive contacts the Regional Health and Social Care Board and requests assignment to a contractor for essential services.

Regulation 3 includes the visiting patient amongst the patients whom a contractor is to provide the essential services set out at regulation 15(3) and (5) of the GMS Contracts Regulations.

Regulation 4, amends Schedule 4 to ensure that the contractor can demand and accept a fee, as determined by the Department of Health Social Services and Public Safety, where treatment has been provided to a visiting patient under regulation 15(3) or (5) of the GMS Regulations.

Regulation 5 makes other amendments to Schedule 5 of the GMS Contracts Regulations, including provision that a contractor is not required to attend on a patient or a visiting patient outside Northern Ireland. Provision is also included so that in relation to a visiting patient, prescriptions are to be via a private arrangement.

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