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STATUTORY INSTRUMENTS

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**1993 No. 567**

**The National Health Service (Fund-  
holding Practices) Regulations 1993**

**PART II**

**RECOGNITION**

**Application for recognition as a fund-holding practice**

**3.—(1)** An application shall be made in writing on a form approved by the Secretary of State and, subject to paragraphs (4) and (5), shall be sent to the Regional Health Authority.

(2) The application shall be signed by each member of the practice making it.

(3) The practice shall provide, in connection with the application, such information and documents as the Regional Health Authority may reasonably require for the purposes of determining the application.

(4) Where a member of a practice is included in both the medical list of an FHSAs whose locality is in England and the medical list of an FHSAs whose locality is in Wales, or the members of the practice include a member who is included only in the medical list of an FHSAs whose locality is in England and a member who is included only in the medical list of an FHSAs whose locality is in Wales, then the application shall be made to—

(a) the Regional Health Authority if more patients on the lists of the members of the practice reside in England than in Wales;

(b) the Secretary of State in any other case.

(5) Where at least one of the members of a practice wishing to make an application is included in the medical list of a Health Board, section 14 of the 1977 Act shall operate subject to the modification that at the end of subsection (1) there shall be added the words “except, if at least one of those practitioners is also providing general medical services in accordance with arrangements under section 19 of the National Health Service (Scotland) Act 1978(1), where more patients on the lists of members of the practice reside in Scotland than in England”.

**Time of application**

**4.** An application for recognition which is to take effect from 1st April in any year shall be made by 1st April in the preceding year.

**Grant of recognition as a fund-holding practice**

**5.—(1)** The Regional Health Authority shall grant recognition as a fund-holding practice if it is satisfied that the conditions specified in Schedule 1 are fulfilled.

(2) Recognition as a fund-holding practice shall take effect from 1st April following the grant of recognition.

### **Determination of application**

6. The Regional Health Authority shall determine an application and shall—
- (a) send to each member of the practice notice of its decision;
  - (b) include in the notice a statement of the reasons for its decision; and
  - (c) where recognition as a fund-holding practice has been refused, inform each member of the practice of the right to appeal to the Secretary of State against the refusal.

### **Appeals to the Secretary of State against refusal of recognition**

7.—(1) A practice may appeal to the Secretary of State against a decision of a Regional Health Authority to refuse to grant the practice recognition as a fund-holding practice.

(2) Subject to paragraph (4), a notice of appeal shall be signed by all the members of the practice.

(3) Subject to paragraph (4), a notice of appeal shall be sent to the Secretary of State within the period of one month beginning with the date on which notice of the Regional Health Authority's decision was sent to the members of the practice and shall contain a concise statement of the grounds of appeal on which the practice relies.

(4) Where in any case it appears to her just and proper to do so, the Secretary of State may do either or both of the following:

- (a) dispense with the requirement in paragraph (2);
- (b) extend the time limit mentioned in paragraph (3).

(5) The Secretary of State shall send a copy of the notice of appeal to the Regional Health Authority.

(6) The Secretary of State may, if she is of the opinion that the appeal is of such a nature that it can properly be determined without an oral hearing, determine the appeal without an oral hearing.

(7) If the Secretary of State is of the opinion that an oral hearing is required, she shall appoint one or more persons to hear the appeal and shall send to each member of the practice and the Regional Health Authority a notice of the date of the hearing and the time and place at which it is to be held.

(8) All members of the practice may attend the hearing and the practice may be represented by a member of the practice or some other person appointed for the purpose by the practice and the Regional Health Authority may be represented by a member or officer of the Authority or some other person appointed for the purpose by the Authority.

(9) The person or persons hearing the appeal shall report to the Secretary of State in writing and the report shall contain such findings of fact as the person or persons hearing the appeal consider necessary for the purpose of enabling the Secretary of State to determine the appeal, and their conclusions.

(10) The Secretary of State, on receipt of the report, shall—

- (a) take the report into consideration; and
- (b) determine the appeal.

(11) Where the Secretary of State has determined an appeal in accordance with this regulation, she shall—

- (a) send to each member of the practice making the appeal and to the Regional Health Authority a notice of his decision; and
- (b) include in the notice a statement of the reasons for her decision.

### **Conditions for continuing recognition**

8. The members of a fund-holding practice shall continue to be entitled to recognition as a fund-holding practice so long as the conditions specified in Schedule 2 are fulfilled in relation to that practice.

### **Additions to existing fund-holding practices**

9.—(1) Subject to paragraph (2), where a medical practitioner (whether or not he is a member of another fund-holding practice) wishes to become a member of an existing fund-holding practice—

- (a) he and the members of the existing fund-holding practice shall apply to the Regional Health Authority for recognition as a fund-holding practice in accordance with regulation 3, but
- (b) regulations 4 and 5(2) shall not apply in the case of that application.

(2) Where a medical practitioner becomes a partner of a member of a fund-holding practice as a result of the grant of an application made by the medical practitioner to an FHSA under regulation 5 of the National Health Service (General Medical Services) Regulations 1992(2)(application for inclusion in the medical list or to succeed to a vacancy), he shall, on giving notice in writing to that effect to the Regional Health Authority, be a member of that fund-holding practice notwithstanding that he did not join in the making of an application under regulation 3.

### **Withdrawal or death of a member of a fund-holding practice**

10.—(1) Where—

- (a) a member of a fund-holding practice withdraws from the practice or dies; but
- (b) the conditions specified in Schedule 2 continue to be fulfilled in relation to the practice

the recognition as a fund-holding practice of the remaining members of the practice shall not be affected by the withdrawal or death.

(2) 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.