
STATUTORY INSTRUMENTS

1997 No. 747

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service (Fund-holding
Practices) Amendment Regulations 1997**

<i>Made</i>	- - - -	<i>11th March 1997</i>
<i>Laid before Parliament</i>		<i>11th March 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1997</i>

The Secretary of State for Health, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of powers conferred by sections 13 and 126(4) and (5) of an paragraph 16 of Schedule 5 to the National Health Service Act 1997(1) and sections 14(2) and (6), 15(7), 16(1), (2) and (6) and 17 of the National Health Service and Community Care Act 1990(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Fund-holding Practices) Amendment Regulations 1997 and shall come into force on 1st April 1997.

(2) In these Regulations, “the principal Regulations” means the National Health Service (Fund-holding Practices) Regulations 1996(3).

Amendment of regulation 1 of the principal Regulations

2.—(1) Regulation 1 of the principal Regulations (citation, commencement and interpretation) is amended as follows.

(2) In paragraph (2), after the definition of “fund-holding account”, insert—

““GP commissioning group” means a fund-holding practice which has been granted recognition as a GP commissioning group in accordance with regulation 5;”.

(1) 1977 c. 49; see section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i), for the definitions of “prescribed” and “regulations”. Section 13 was amended by the Health Services Act 1980 (c. 53), paragraph 31 of Schedule 1, the 1990 Act, Schedule 10 and the Health Authorities Act 1995 (c. 17) paragraph 4 of Schedule 1. Section 126(4) was amended by, and section 126(5) was inserted by, section 65(2) of the 1990 Act.

(2) 1990 c. 19. Sections 14, 15, 16 and 17 were amended by, respectively, paragraphs 73, 74, 75 and 76 of Schedule 1 to the Health Authorities Act 1995 (c. 17).

(3) S.I. 1996/706.

Amendment of regulation 2 of the principal Regulations

3. For regulation 2 of the principal Regulations (application of Regulations in Wales), substitute—

“2. In relation to a standard fund-holding practice whose Health Authority has an area in Wales, paragraph 1 of Schedule 1 and paragraphs 1 and 2 of Schedule 2 shall each apply as if for “5,000” there were substituted “4,000”.”

Amendment of regulation 3 of the principal Regulations

4.—(1) Regulation 3 of the principal Regulations (application for recognition as a fund-holding practice) is amended as follows.

(2) For paragraph (2) substitute—

“(2) The application shall state whether it is an application for recognition as—

- (a) a community fund-holding practice,
- (b) a standard fund-holding practice, or
- (c) a GP commissioning group.”.

(3) In paragraph (4), for “a standard, or as the case may be, a community fund-holding practice;”, substitute “one of the other kinds of fund-holding practice;”.

(4) In paragraph (6)(a), for “complies with the relevant condition set out in paragraph 1(a) or (b) of Schedule 1” substitute “(in the case of a standard fund-holding practice) complies with the condition set out in paragraph 1 of Schedule 1”.

(5) In paragraph (9)(a), for “paragraph 1(a) or (b)” substitute “paragraph 1”.

Amendment of regulation 5 of the principal Regulations

5. In regulation 5(1) of the principal Regulations (grant of recognition as a fund-holding practice), for “or as a community fund-holding practice” substitute “, a community fund-holding practice or a GP commissioning group”.

Amendment of regulation 7 of the principal Regulations

6.—(1) Regulation 7 of the principal Regulations (conditions for continuing recognition) is amended as follows.

(2) Renumber regulation 7 as paragraph (1), and after “community fund-holding practice” insert “or GP commissioning group”.

(3) After paragraph (1) (as so renumbered) insert—

“(2) In relation to a GP commissioning group, Schedule 2 applies—

- (a) as if in paragraph 5, “20,” were omitted; and
- (b) as if in paragraph 10, sub-paragraph (d) were omitted.”.

Amendment of regulation 9 of the principal Regulations

7.—(1) Regulation 9 of the principal Regulations (withdrawal or death of a member of a fund-holding practice) is amended as follows.

(2) In paragraph (3)(d), omit “1”.

(3) In paragraph (5), after “Where a member of a” insert “standard fund-holding practice or community”.

Amendment of regulation 10 of the principal Regulations

8.—(1) Regulation 10 of the principal Regulations (application for change in status of recognised fund-holding practice) is amended as follows.

(2) For paragraph (1) substitute—

“(1) A fund-holding practice of one kind may apply to become a fund-holding practice of a different kind.”.

(3) In paragraph (3), for “1st July” substitute “31st July”.

Insertion of Part IV into the principal Regulations

9. Before regulation 13 of the principal Regulations, insert—

“PART IV
REMOVAL OF RECOGNITION”.

Amendment of regulation 13 of the principal Regulations

10. In regulation 13(2) of the principal Regulations (grounds for removal of recognition), after “standard fund-holding practice” insert “or a GP commissioning group”.

Amendment of regulation 20 of the principal Regulations

11.—(1) Regulation 20 of the principal Regulations (purchase of goods and services) is amended as follows.

(2) Before paragraph (1) insert—

“(A1) This regulation does not apply to the members of a GP commissioning group, and references in this regulation to “fund-holding practice” shall be construed accordingly.”.

(3) In paragraph (2), for “community fund-hold” substitute “community fund-holding”.

(4) After paragraph (2) insert—

“(2A) Subject to paragraph (4), where an individual who is a patient of a member of a fund-holding practice either refers himself to an NHS trust, or is referred by a doctor who is not a member of the fund-holding practice, for any service included in the list mentioned in paragraph (2), regulation 3(2) of the National Health Service (Functions of Health Authorities and Administration Arrangements) Regulations 1996(4) shall not apply in relation to that patient as respects that service.”

(5) In paragraph (6), after sub-paragraph (a) insert “and”, and omit sub-paragraph (c) and the word “and” immediately preceding it.

(6) In paragraph 11(n), for “health authority” substitute “Health Authority”.

Amendment of regulation 21 of the principal Regulations

12.—(1) Regulation 21 of the principal Regulations (limit on provision of goods and services) is amended as follows.

(2) Renumber regulation 21 as paragraph (2).

(3) Before paragraph (2) (as so renumbered) insert—

(4) [S.I. 1996/708](#).

“(1) This regulation does not apply to a GP commissioning group.”.

Amendment of regulation 22 of the principal Regulations

13.—(1) Regulation 22 of the principal Regulations (payments to staff) is amended as follows.

(2) Before paragraph (1) insert—

“(A1) This regulation does not apply to the members of a GP commissioning group, and references in this regulation to “fund-holding practice” shall be construed accordingly.”.

(3) In paragraph (1), for “paragraphs (2), (3) and (4)”, substitute “paragraphs (2), (3) and (5)”.

Amendment of regulation 25 of the principal Regulations

14.—(1) Regulation 25 of the principal Regulations (savings from the allotted sum) is amended as follows.

(2) In paragraph (2)—

(a) after “22 and 24” insert “or in accordance with paragraph (2B)”; and

(b) for “the following purposes” substitute “the purposes specified in the following sub-paragraphs or in paragraph (2A)”.

(3) After paragraph (2) insert—

“(2A) Subject to paragraph (3), with the written consent of the Health Authority, the members of a GP commissioning group may, in addition to the purposes specified in paragraph (2), apply savings for the purpose of training employees of members of the practice.

(2B) The members of a fund-holding practice may, at any time, return to the Health Authority any savings which they do not wish to apply in accordance with paragraph (2) or (2A).”.

(4) In paragraph (3), after “paragraph (2)(a) to (f)” insert “or paragraph (2A)”.

Insertion of Part VII into the principal Regulations

15. Before regulation 26 of the principal Regulations, insert—

“PART VII
MISCELLANEOUS”,

and omit those words before regulation 27.

Amendment of Schedule 1 to the principal Regulations

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

(2) In the heading, omit “as a fund-holding practice”.

(3) For paragraph 1 substitute—

“1. In the case of an application for recognition as a standard fund-holding practice, on the date on which the application is made there are at least 5,000 patients on the lists of patients of the members of the practice or, in the opinion of the Secretary of State, it is

likely that there will be at least that many patients on those lists on the date on which any recognition would take effect in accordance with regulation 5(2).”.

Amendment of Schedule 2 to the principal Regulations

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

(2) In the heading, omit “as a fund-holding practice”.

(3) In each of paragraphs 1 and 2, omit “in the case of a community fund-holding practice, at least 3,000 patients or”.

Signed by authority of the Secretary of State for Health.

11th March 1997

Gerald Malone
Minister of State
Department of Health

11th March 1997

Gwilym Jones
Parliamentary Under-Secretary of State Welsh
Office

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Fund-holding Practices) Regulations 1996 (“the principal Regulations”), which contain provisions relating to the recognition and operation of fund-holding practices.

Regulation 5 amends regulation 5 of the principal Regulations (grant of recognition as a fund-holding practice) to provide for the recognition of a new kind of fund-holding practice (the two existing kinds are a standard fund-holding practice and a community fund-holding practice): a GP commissioning group. Such a practice will not be able to spend its allotted sum on the purchase of goods and services for its patients (regulation 11). Regulations 2, 4, 6, 8, 10, 12 and 13 make drafting amendments to the principal Regulations which are consequential on this change.

Regulation 7 amends regulation 9 of the principal Regulations (withdrawal or death of a member of a fund-holding practice) to provide that GP commissioning groups are not subject to the requirement for the transfer of savings to the Health Authority where a member of a fund-holding practice withdraws in certain circumstances.

Regulation 14 amends regulation 25 of the principal Regulations (savings from the allotted sum) to provide that members of a fund-holding practice (of any kind) may return savings to the relevant Health Authority. Members of a GP commissioning group are also able to spend savings on the training of employees of members of the practice (which members of a standard and community fund-holding practice may do by virtue of regulation 22 of the principal Regulations).

Regulation 8 amends regulation 10 of the principal Regulations (application for change in status of recognised fund-holding practice) to provide that the date by which most applications for change in status must be made is 31st July (instead of 1st July).

Regulation 11 amends regulation 20 of the principal Regulations (purchase of goods and services) to provide that the relevant Health Authority, rather than a fund-holding practice, shall be responsible for services to a patient who self-refers to a hospital or is referred by a doctor who is not a member of the fund-holding practice. It also contains a provision that abolishes the requirement that fund-holding practices should purchase an amount of district nursing and health visiting services which is at least equal to the amount of such services that the Secretary of State had determined was expected to be purchased.

Regulations 16 and 17 amend Schedules 1 and 2 to the principal Regulations (conditions for obtaining and continuing recognition as a fund-holding practice) to provide for the abolition of the requirement that community fund-holding practices should have at least 3,000 patients. Regulations 3 and 4 make drafting amendments consequential on this change.

Regulations 7, 9, 11, 13 and 15 make minor drafting improvements to the principal Regulations, including the correction of typographical errors.