STATUTORY INSTRUMENTS

2013 No. 349

The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013

PART 14

Miscellaneous

Notification by the NHSCB of changes to its lists

115. Where, in accordance with the provisions of these Regulations, or the 2012 Regulations or the 2005 Regulations as they continue to have effect by virtue of Schedule 9, or the 2006 Act, the NHSCB—

(a) removes a person from a pharmaceutical list, dispensing doctor list or list of LPS chemists; or

(b) removes the listing of premises in relation to a person on a pharmaceutical list or dispensing doctor list,

it must notify the person of the change to its list that has taken place.

Authorised persons to apply for services

116. An application to an NHS chemist for pharmaceutical services, or an application to an LPS chemist for local pharmaceutical services, may be made (other than by the chemist concerned)—

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

(b) on behalf of any person, other than a child under the age of 18 years of age who is—

(i) in the care of an authority to whose care that person has been committed under the Children Act 1989 [M1], by a person duly authorised by that authority, or

(ii) in the care of a voluntary organisation, by that organisation or a person duly authorised by them;

(c) 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 (who may be an adult or an organisation) of that person; or

(d) on behalf of any other person by a duly authorised person.

Marginal Citations

M1 1989 c. 41.

Functions of the Secretary of State to be exercised by the NHS Litigation Authority

117.—(1) The NHS Litigation Authority must exercise the following functions of the Secretary of State—

(a) the functions relating to receiving and determining any appeal in relation to which Schedule 3 has effect, including all of the functions of the Secretary of State under that Schedule (which include determining whether certain persons have rights of appeal);

(b) the functions relating to being contacted about, and providing, information under—

(i) regulation 33(2),

(ii) regulation 86(2), and

(iii) paragraph 23(1)(b) of Schedule 2;

(c) the function of providing consent under regulation 76(1);

(d) the function of receiving notifications under regulation 88(2)(a);

(e) the functions relating to receiving and determining an appeal under—

(i) paragraph 25(7) to (9) of Schedule 4,

(ii) paragraph 26(9) to (11) of Schedule 4,

(iii) paragraph 15(7) to (9) of Schedule 5, and

(iv) paragraph 16(9) to (11) of Schedule 5;

(f) subject to paragraph (2), the functions under the terms of LPS schemes that give effect to the following provisions—

(i) paragraph 21 of Schedule 7,

(ii) paragraph 22 of Schedule 7, and

(iii) paragraph 23 of Schedule 7;

(g) the functions under the terms of LPS pilot schemes which relate to receiving and determining appeals by providers of piloted services with regard to the determination of premises opening hours;

(h) subject to paragraph (2), the functions under the terms of LPS pilot schemes which relate to dispute resolution; and

(i) the functions relating to—

(i) receiving and determining any appeal which, by virtue of Schedule 9, the Secretary of State is required to determine, and

(ii) dispute resolution which, by virtue of Schedule 9, the Secretary of State is required to perform,

under the 2005 Regulations, the 2012 Regulations or the terms of an LPS scheme, including the incidental functions of the Secretary of State relating to such appeals or dispute resolution (for example, determining whether certain persons have rights of appeal and applying the continuity principles as appropriate).

(2) The NHS Litigation Authority must not, pursuant to paragraph (1)(f) or (h), exercise the Secretary of State's functions that the First-tier Tribunal is required to exercise by virtue of regulation 113.

(3) The NHS Litigation Authority is to exercise the powers of the Secretary of State under section 2 of the 2006 Act (Secretary of State's general power) to do anything that is calculated to facilitate, or is conducive or incidental to, the discharge of any function of the Secretary of State that the NHS Litigation Authority is exercising by virtue of paragraph (1), but only to the extent that it is necessary for the proper exercise of that function.

Proceedings relating to overridden arrangements

118. Where, during an emergency requiring the flexible provision of pharmaceutical services, or a period specified under regulation 29(3), 61(6) or 111(2), arrangements for the provision of pharmaceutical services or local pharmaceutical services are overridden by temporary arrangements—

(a) any proceedings with regard to the overridden arrangements are unaffected by that overriding (although they may need to be stayed during the emergency or the specified period for other reasons); and

(b) if as a result of those proceedings the overridden arrangements require amendment before the end of the temporary arrangements, when the emergency or the specified period ends, the reversion to overridden arrangements is to be to the original overridden arrangements as amended as a result of those proceedings.

Transitional provisions

119. The transitional provisions set out in Schedule 9 have effect.

[F1Transitional provisions in respect of drugs or appliances supplied in accordance with SSPs

119A.—(1) This paragraph applies where—

(a) pursuant to paragraph 5A(4)(a) of Schedule 4, paragraph 4A(4)(a) of Schedule 5, paragraph 3A(2)(a) of Schedule 6 or paragraph 3A(4)(a) of Schedule 7, an NHS chemist, an LPS chemist or a dispensing doctor is required to endorse a prescription or an associated batch issue; and

(b) the Secretary of State (or the NHS BSA acting on the Secretary of State's behalf) is only able, or is also able, to process a claim for pharmaceutical reimbursement in respect of the product being provided if the claim is made using a separate token ("a dispensing token"), which is in a form approved by the Secretary of State for the purposes of making such claims (and for prescription charge purposes).

(2) Where paragraph (1) applies—

(a) to the extent required or permitted by the Drug Tariff, a dispensing token recording the provision of the product is treated as being, as regards that product, the prescription for product reimbursement purposes;

(b) if the manner for recording the provision of the product in the dispensing token is provided for in the Drug Tariff, the recording of the provision of the product in the dispensing token must be in the manner provided for in the Drug Tariff; and

(c) the manner of the endorsement of the original prescription or associated batch issue (where provided for in the Drug Tariff) may vary, depending on whether or not it is to be used for product reimbursement purposes.

(3) Where, by virtue of paragraph (2)(a), a dispensing token is treated as being the prescription for product reimbursement purposes—

(a) paragraph 7(6) of Schedule 4 applies as if the reference to paragraph 5A(4)(a) of that Schedule included a reference, in the alternative, to paragraph (2)(a);

(b) paragraph 6(3B) of Schedule 5 applies as if the reference to paragraph 4A(4)(a) of that Schedule included a reference, in the alternative, to paragraph (2)(a);

(c) paragraph 4B of Schedule 6 applies as if the reference to paragraph 3A(2)(b) of that Schedule included a reference, in the alternative, to paragraph (2)(a); and

(d) paragraph 5(6) of Schedule 7 applies as if the reference to paragraph 3A(4)(a) of that Schedule included a reference, in the alternative, to paragraph (2)(a).

(4) For the purposes of this regulation, "pharmaceutical reimbursement" has the meaning given in paragraph 19(3) of Schedule 7.**]**

F1 Reg. 119A inserted (1.7.2019) by The National Health Service (Amendments Relating to Serious Shortage Protocols) Regulations 2019 (S.I. 2019/990), regs. 1, **3**

Amendments and revocations

120. The amendments to and revocations of enactments set out in Schedule 10 have effect.

Review of these Regulations

[[F2]**121.**—(1) The Secretary of State must, in accordance with paragraphs (2) to (4)—

(a) carry out reviews of these Regulations;

(b) set out the conclusions of each review in a report; and

(c) publish each report.

(2) Each report must in particular—

(a) set out the objectives intended to be achieved by these Regulations;

(b) assess the extent to which those objectives have been achieved;

(c) assess whether those objectives remain appropriate; and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(3) The first report under this regulation must be published before the end of **[**[F3]31st March 2018**]**.

(4) Each subsequent report must be published before the end of the period of five years beginning on the day on which the previous report was published.**]**

F2 Reg. 121 substituted (1.4.2016) by The National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2016 (S.I. 2016/296), regs. 1(1)(a), **3**

F3 Words in reg. 121(3) substituted (E.) (30.8.2017) by The National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2017 (S.I. 2017/709), regs. 1, **2**

Changes to legislation:
There are outstanding changes not yet made by the legislation.gov.uk editorial team to The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

– blanket amendment words substituted by S.I. 2023/1071 Sch. para. 1