

2017 No. 1056

NATIONAL HEALTH SERVICE

**The National Health Service (Primary Dental Services and
General Ophthalmic Services) (Amendment) Regulations 2017**

Made - - - - *1st November 2017*

Laid before Parliament *3rd November 2017*

Coming into force in accordance with regulation 1(2) and (3)

The Secretary of State for Health, in exercise of the powers conferred by sections 101(1), 104(1) and (2)(a), 109(1) and (3), 115(1) and (2)(c), 116(2) and (3), 121(1), 179(1), 180(1), (3) and (11) and 272(7) and (8)(a) of the National Health Service Act 2006(a), makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Primary Dental Services and General Ophthalmic Services) (Amendment) Regulations 2017.

(2) Subject to paragraph (3), they come into force on 1st December 2017.

(3) Regulations 2(3) and 4(3) come into force on 1st May 2019.

(4) In these Regulations—

“the GDS Regulations” means the National Health Service (General Dental Services Contracts) Regulations 2005(b);

“the PDS Regulations” means the National Health Service (Personal Dental Services Agreements) Regulations 2005(c);

“the General Ophthalmic Services Regulations” means the General Ophthalmic Services Contracts Regulations 2008(d);

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- (a) 2006 c. 41. The National Health Service Act 2006 (“the Act”) was amended by the Health and Social Care Act 2012 (c.7) (“the 2012 Act”). Section 104 was amended by paragraph 46 of Schedule 4 to the 2012 Act. Section 109 was amended by paragraph 50 of Schedule 4 to the 2012 Act, and by section 17(5) of, and paragraph 52 of Schedule 9 to the Crime and Courts Act 2013 (c.22). Section 115 was amended by paragraph 54 of Schedule 4 to the 2012 Act. Section 121 was amended by paragraph 59 of Schedule 4 to the 2012 Act. Section 180(1) was amended by Schedule 6 to the Health Act 2009 (c.21) and section 205 of, and paragraph 96(1) and (2) of Schedule 4 to, the 2012 Act. *See* section 275(1) of the Act for the meaning given to “prescribed” and “regulations”. The powers exercised in making these Regulations are exercisable by the Secretary of State in relation to England only, by virtue of section 271(1) of the Act.
- (b) S.I. 2005/3361; amending instruments are S.I. 2006/563, 2007/544, 2008/528, 1514 and 1700, 2009/309 and 462, 2010/22 and 1881, 2011/1182, 2012/502, 2273 and 3404, 2013/364, 2014/443, 2015/137, 416 and 1728, and 2016/211, 298 and 481.
- (c) S.I. 2005/3373; amending instruments are S.I. 2006/563, 2007/544, 2008/528 and 1514, 2009/309 and 462, 2010/22 and 1881, 2011/1182, 2012/502, 2273 and 2404, 2013/364, 2014/443 and 1887, 2014/887, 2015/137, 416 and 1728 and 2016/211, 298 and 481.
- (d) S.I. 2008/1185; amending instruments are S.I. 2008/1700, 2009/309, 2010/ 634, 22 and 634, 2013/365, 2014/418 and 1887, 2015/416 and 137 and 2016/211.

“the Primary Ophthalmic Services Regulations” means the Primary Ophthalmic Services Regulations 2008(a); and

“the Optical Charges and Payments Regulations” means the National Health Service (Optical Charges and Payments) Regulations 2013(b).

Amendment to the GDS Regulations

2.—(1) The GDS Regulations are amended as follows.

(2) In regulation 24C(2)(c) (variation of contractual terms in respect of election to enter into a prototype agreement), for “31st March 2018” substitute “31st March 2020”.

(3) In paragraph 38 of Schedule 3 (notification of a course of treatment, orthodontic course of treatment etc)—

(a) after sub-paragraph (1)(f), for “send to the Board, on a form supplied by it” substitute “subject to sub-paragraph (4), send to the Board by means of electronic submission”;

(b) for sub-paragraph (2)(d) substitute “in the case of a patient who is exempt from NHS Charges, the information required under sub-paragraph (3).”;

(c) after sub-paragraph (2) insert the following—

“(3) In the case of a patient who is exempt from NHS Charges, the contractor must provide the Board (or a person authorised on the Board’s behalf) with—

(a) such details of that exemption as the Board may reasonably request; and

(b) the written declaration.

(4) The Board may accept submission of the information mentioned in sub-paragraph (2) in paper form in such exceptional circumstances as the Board may reasonably determine.

(5) In this paragraph, ‘electronic submission’ means the submission of information electronically via a computer system approved by the Board.”.

Transitional provision relating to the GDS Regulations

3.—(1) Notwithstanding the amendments made by regulation 2(3), where a course of treatment is completed on or before 30th April 2019, the Board may accept submission of the information required by paragraph 38(2) of Schedule 3 to the GDS Regulations in paper form up to and including 30th June 2019.

(2) In this regulation, ‘course of treatment’ has the same meaning as in regulation 2(1)(d) (interpretation) of the GDS Regulations.

Amendment to the PDS Regulations

4.—(1) The PDS Regulations are amended as follows.

(2) In regulation 20C(2)(e)(variation of contractual terms in respect of election to enter into a prototype agreement), for “31st March 2018” substitute “31st March 2020”.

(3) In paragraph 39 of Schedule 3 (notification of a course of treatment, orthodontic course of treatment etc)—

(a) after sub-paragraph (1)(f), for “send to the Board, on a form supplied by it” substitute “subject to sub-paragraph (5), send to the Board by means of electronic submission”;

(a) S.I. 2008/1186; amending instruments are S.I. 2008/1700 and 2449, 2009/409, 2010/634, 2013/365, 2015/570 and 1776 and 2016/211 and 1045.

(b) S.I. 2013/461; amending instruments are S.I. 2013/1856, 2015/570 and 1776 and 2016/211, 325 and 1045.

(c) Regulation 24C was inserted by S.I. 2015/1728 and was amended by S.I. 2016/298.

(d) Relevant amending instruments are S.I. 2014/443 and 2015/1728.

(e) Regulation 20C was inserted by S.I. 2015/1728 and was amended by S.I. 2016/298.

- (b) for sub-paragraph (3)(d) substitute “in the case of a patient who is exempt from NHS Charges, the information required under sub-paragraph (4).”; and
- (c) after sub-paragraph (3) insert the following—
 - “(4) In the case of a patient who is exempt from NHS Charges, the contractor must provide the Board (or a person authorised on the Board’s behalf) with—
 - (a) such details of that exemption as the Board may reasonably request; and
 - (b) the written declaration.
 - (5) The Board may accept submission of the information mentioned in sub-paragraph (2) in paper form in such exceptional circumstances as the Board may reasonably determine.
 - (6) In this regulation, ‘electronic submission’ means the submission of information electronically via a computer system approved by the Board.”.

Transitional Provision relating to the PDS Regulations

5.—(1) Notwithstanding the amendments made by regulation 4(3), where a course of treatment is completed on or before 30th April 2019, the Board may accept submission of the information mentioned in paragraph 39(3) of Schedule 3 to the PDS Regulations in paper form up to and including 30th June 2019.

(2) In this regulation, ‘course of treatment’ has the same meaning as in regulation 2(a) (interpretation) of the PDS Regulations.

Amendment to the General Ophthalmic Services Regulations

6.—(1) The General Ophthalmic Services Regulations are amended as follows.

(2) In regulation 2(b) (interpretation), for the definition of “Charges Regulations” substitute ““Charges Regulations” means the National Health Service (Optical Charges and Payments) Regulations 2013(c);”.

(3) In regulation 16(6)(d) (fees, charges and financial interests of the contractor), for “may be submitted electronically or on paper and” substitute “which may be submitted in either electronic form or on paper and”.

(4) After regulation 16(9) insert—

“(10) In this regulation, “electronic form” means the submission of information electronically via a computer system approved by the Board.”.

Amendment to the Primary Ophthalmic Services Regulations

7.—(1) The Primary Ophthalmic Services Regulations are amended as follows.

(2) In regulation 2(1)(e) (interpretation)—

(a) for the definition of “Charges Regulations”, substitute—

““Charges Regulations” means the National Health Service (Optical Charges and Payments) Regulations 2013;”;

(b) for the definition of “notice of entitlement”, substitute—

““notice of entitlement to full remission” means a notice of entitlement to full remission of a NHS charge issued under regulation 8 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 for the purposes of remission of charges under the Act;”.

(a) Relevant amending instruments are S.I. 2014/443 and 2015/1728.
 (b) Relevant amending instrument is S.I. 2013/365.
 (c) S.I. 2013/461.
 (d) Regulation 16 was amended by S.I. 2010/634, 2013/365 and 2014/418.
 (e) Relevant amending instrument is S.I. 2013/365.

(3) In regulation 3(2)(h) (sight tests—eligibility), after the word “entitlement”, insert “to full remission;”.

(4) In regulation 5(2)(a) (sight test treated as a test under general ophthalmic services), for “regulation 8(1)(a) of the Charges Regulations” substitute “regulation 8(1) of the Charges Regulations”.

(5) After regulation 6(2) (application and signatures by children or persons incapable) insert—

“(3) a signature required by these Regulations must—

- (i) where an electronic form is used, be in digital ink; or
- (ii) where a paper form is used be in ink,

and must be in the signatory’s own handwriting with the signatory’s initials or forename and surname, and not by means of a stamp or a reproduced image.”.

Amendment to the Optical Charges and Payments Regulations

8.—(1) The Optical Charges and Payments Regulations are amended as follows.

(2) In regulation 1(2)(interpretation:);—

(a) after the definition of “disability element” insert—

““electronic form” means the submission of information electronically via a computer system approved by the Board;”;

(b) for the definition of “voucher” substitute—

““voucher” for the purposes of enabling a payment to be made under these Regulations means—

(a) in Part 3, a voucher form approved by the Secretary of State or the Board which is used by a person with whom the Board has entered into a general ophthalmic services contract under section 117 of the 2006 Act (general ophthalmic services contracts: introductory);

(b) in Part 4, a voucher form—

- (i) where a sight test is carried out by an NHS trust or NHS foundation trust, supplied by that NHS trust or NHS foundation trust; and
- (ii) in any other case, approved by the Secretary of State or the Board and used by the person who carries out the sight test;

(c) in Part 5, a voucher form—

- (i) where an optical appliance is repaired or replaced by an NHS trust or NHS foundation trust, supplied by that NHS trust or NHS foundation trust;
- (ii) in any other case, approved by the Secretary of State or the Board”.

(3) In regulation 5(2)(b)(i) (payments to ophthalmic practitioners), after “completed voucher” insert “(which may be submitted in either electronic or paper form)”.

(4) In regulation 14(2)(c)(ii) (payments to suppliers), after “completed voucher” insert “(which may be submitted in either electronic or paper form)”.

(5) In regulation 19(2)(b)(iii) (payments to suppliers for the replacement or repair), after “completed voucher” insert “(which may be submitted in either electronic or paper form)”.

(6) Regulation 26 (signatures and claims for payments) is renumbered as paragraph (1) of that regulation.

(7) After regulation 26(1) as so renumbered, insert—

“(2) A signature required by these Regulations must—

- (i) where an electronic form is used, be in digital ink, or

(a) Regulation 5 was amended by S.I. 2013/365 and 2016/1045.

(ii) where a paper form is used be in ink,
and must be in the signatory's own handwriting with the signatory's initials or forename
and surname and not by means of a stamp or a reproduced image.”.

Signed by authority of the Secretary of State for Health.

Stephen Brine
Parliamentary Under-Secretary of State,
Department of Health

1st November 2017

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the National Health Service (General Dental Services Contracts) Regulations 2005 (“the GDS Regulations”), the National Health Service (Personal Dental Services Agreements) Regulations 2005 (“the PDS Regulations”), the General Ophthalmic Services Contracts Regulations 2008 (“the GOS Contract Regulations”), the Primary Ophthalmic Services Regulations 2008 (“the POS Regulations”), the National Health Service (Optical Charges and Payments) Regulations 2013 (“the Charges Regulations”) and the Primary Ophthalmic Services Regulations 2008 (“the POS Regulations”).

These Regulations come into force on 1st December 2017 but the amendments made by regulations 2(3) and 4(3) to the GDS Regulations and the PDS Regulations do not take effect until 1st May 2019. This is in order to allow dental performers adequate time to obtain any necessary computer equipment or software in order to be able to comply with the requirements imposed by these amendments.

The GDS Regulations set out a framework for England for general dental services contracts.

Regulation 2(2) amends regulation 24C of the GDS Regulations to extend the date of termination of the prototype agreement to 31st March 2020 to allow a longer period to fully evaluate the effectiveness of the prototype agreement in testing the preventative approach to dental care.

Regulation 2(3) amends paragraph 38 of Schedule 3 to the GDS Regulations to require the electronic submission of certain dental forms and to give the National Health Service Commissioning Board (commonly known as NHS England) a discretionary power to accept submission of paper forms in exceptional circumstances.

Regulation 3 provides for a transitional period to allow for paper submission of certain forms up to 30th June 2019 notwithstanding the amendments made by regulation 2, for courses of dental treatment that end before 30th April 2019.

The PDS Regulations set out a framework for England for personal dental services agreements.

Regulation 4(2) amends regulation 20C of the PDS Regulations to extend the date of termination of the prototype agreement to 31st March 2020 to allow a longer period to fully evaluate the effectiveness of the prototype agreement in testing the preventative approach to dental care.

Regulation 4(3) amends paragraph 39 of Schedule 3 to the PDS Regulations to require the electronic submission of certain dental forms and to provide for a discretionary power to accept submission of paper forms in exceptional circumstances.

Regulation 5 makes transitional provision to allow for paper submission of certain dental forms up to 30th June 2019 notwithstanding the amendments made by regulation 4, for courses of dental treatment that end before 30th April 2019.

The GOS Contract Regulations set out a framework for general ophthalmic services contracts.

Regulation 6(2) amends regulation 2 of the GOS Contract Regulations to clarify the definition of the Charges Regulations.

Regulation 6(3) amends regulation 16 of the GOS Contract Regulations to make the wording consistent with that of other regulations.

The POS Regulations make provision for who is entitled to a primary ophthalmic services sight test under the National Health Service Act 2006.

Regulation 7(2) makes amendments to regulation 2 the POS Regulations to clarify the definition of the “Charges Regulations” and “notice of entitlement”.

Regulation 7(3) amends regulation 3 of the POS Regulations to clarify the meaning of notice of entitlement.

Regulation 7(4) amends regulation 5 of the POS Regulations to rectify a typographical error.

Regulation 7(5) amends regulation 6 of the POS Regulations to mandate the use of digital signatures and the use of digital ink where electronic forms are submitted, and to require that such signatures are in the signatories own handwriting.

The Charges Regulations make provision for people who are in receipt of certain state benefits or who are on a low income to be reimbursed for travel expenses incurred in obtaining certain NHS services.

Regulation 8(2) amends regulations 1 of the Charges Regulations to replace the definition of “vouchers”.

Regulation 8(3) to (5) amends regulations 5, 14 and 19 of the Charges Regulations to allow for electronic submission of voucher forms.

Regulation 8(7) amends regulation 26 of the Charges Regulations to mandate the use of digital signatures and the use of digital ink where electronic forms are submitted, and to require that such signatures are in the signatories own handwriting.

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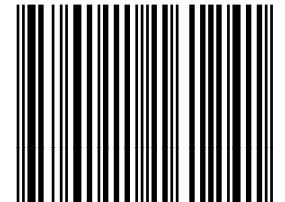
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