
STATUTORY INSTRUMENTS

2023 No. 306

The Health and Care Act 2022 (Consequential and Related Amendments) Regulations 2023

PART 2

Provisions consequential on the transition from the National Tariff to the NHS payment scheme

Amendment of the National Health Service (Licensing and Pricing) Regulations 2013

2. In the National Health Service (Licensing and Pricing) Regulations 2013⁽¹⁾, omit regulations 5 and 6.

Amendment of the National Health Service (Charges to Overseas Visitors) Regulations 2015

3.—(1) Regulation 7 (charges imposed on overseas visitors) of the National Health Service (Charges to Overseas Visitors) Regulations 2015⁽²⁾ is amended as follows.

(2) In paragraph (3), for “tariff” substitute “amount payable”.

(3) After paragraph (3A), insert—

“(3B) In this regulation “amount payable” has the meaning set out in paragraphs (3C) to (3H).

(3C) Where the rules contained in the NHS payment scheme specify a price for a relevant service, that is the amount payable for that service.

(3D) Where the rules contained in the NHS payment scheme specify amounts, agreements, formulae or other matters on the basis of which the price for a relevant service is to be determined, the amount payable for that service is the price that would apply as specified in those rules if the service were provided to a person ordinarily resident in the United Kingdom.

(3E) Where the rules contained in the NHS payment scheme provide for prices to be determined for, or by reference to, components of a relevant service, the amount payable for that service is the price that would apply for the whole service, if the service were provided to a person ordinarily resident in the United Kingdom, as calculated using the price for each component.

(3F) Where the rules contained in the NHS payment scheme provide for prices to be determined for, or by reference to, a group of services of which the relevant service is a part, the amount payable for that service is the price that would apply for the proportion of the group of services that the relevant service represents, if the services were provided to a person ordinarily resident in the United Kingdom.

(1) [S.I. 2013/2214](#), amended by [S.I. 2015/2018](#) and [2022/634](#).

(2) [S.I. 2015/238](#), amended by [S.I. 2017/756](#), [2020/1423](#), [2022/19](#) and [634](#).

(3G) Where the NHS payment scheme does not contain rules for determining the price for a relevant service as described by paragraphs (3C) to (3F), the amount payable for that service is such reasonable charge that the relevant body determines having had regard to the matters set out in paragraph (3H).

(3H) The matters to which the relevant body must have regard for the purposes of determining the amount payable for a relevant service under paragraph (3G) are—

- (a) the actual cost that would be payable to the relevant body by the commissioner, in accordance with the rules contained in the NHS payment scheme, in respect of the relevant service, if the service were provided to a person ordinarily resident in the United Kingdom; and
- (b) where the relevant service would normally be commissioned as part of a group of services, the proportion of the group of services that the service provided to the overseas visitor represents.”.

(4) Omit paragraphs (4) to (12).

(5) For paragraph (13), substitute “For the purposes of this regulation, “NHS payment scheme” means the document published under section 114A(1) of the Health and Social Care Act 2012.”⁽³⁾.

(3) 2012 c.7. Section 114A was inserted by section 77 of, and paragraphs 1 and 3 of Schedule 10 to, the Health and Care Act 2022. The NHS payment scheme is published on the following website: <https://www.england.nhs.uk/pay-syst/nhs-payment-scheme/>. A hard copy is available from the Pricing Team, Monitor, 3rd Floor Wellington House, 133-155 Waterloo Road, London SE1 8UG.