

SCHEDULE 1

Regulation 2

Amendments to the GMS Contracts Regulations

Removal of references to medical cards

1. In regulation 3(1) (interpretation), omit the definition of “medical card”.
2. In regulation 24 (fees and charges), in paragraph (3)(a)—
 - (a) at the end of paragraph (i) insert “and”;
 - (b) omit paragraph (iii) and the “and” immediately after it.
3. In Schedule 3 (other contractual terms), in paragraph 18(3) (application for inclusion in a list of patients) omit “a medical card or”.

Pay transparency

4.—(1) Regulation 27AA (disclosure of information about NHS earnings: jobholders) is amended as follows.

(2) In paragraph (10), for the words from “to include the term” to the end of that paragraph substitute—

“—

- (a) to include the term specified in paragraph (6) in any contract of engagement which T enters into with a jobholder on or after entering into the contract with the contractor;
- (b) to use reasonable endeavours to include that term in any contract of engagement which T has entered into prior to entering into the contract with the contractor.”

(3) In paragraph (11)—

- (a) in sub-paragraph (a), for the words from “to include the term” to the end of that sub-paragraph substitute—

“—

- (i) to include the term specified in paragraph (6) in any contract of engagement which T enters into with a jobholder on or after entering into the contract with S;
- (ii) to use reasonable endeavours to include that term in any contract of engagement which T has entered into prior to entering into the contract with S;”;

- (b) in sub-paragraph (b), after “requiring P to” insert “use reasonable endeavours to”;

(4) For paragraph (12) substitute—

“(12) The term is one which requires T—

- (a) to include the term specified in paragraph (6) in any contract of engagement which T enters into with a jobholder on or after entering into the contract with P;
- (b) to use reasonable endeavours to include that term in any contract of engagement which T has entered into prior to entering into the contract with P.”

Patient online services: provision of online access to coded information in medical record and prospective medical records

5.—(1) For regulation 71ZA substitute—

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“Patient online services: provision of online access to coded information in medical record and prospective medical records

71ZA.—(1) Where the contractor holds the medical record of a registered patient (“P”) on its computerised clinical systems, the contractor must—

- (a) provide P with the facility to access online information entered onto P’s medical record on or after the relevant date (the “prospective medical record”); and
- (b) promote and offer to P, in accordance with paragraph (2), the facility to access online the information from P’s medical record held in coded form.

(2) For the purposes of paragraph (1)(b), the contractor is taken to be—

- (a) promoting the facility to P where P is encouraged to utilise the practice’s digital services and to interact with the practice via online access;
- (b) offering the facility to P where it is freely available to P if P shows interest in the facility or requests access in writing to their medical records held in coded form.

(3) Where a person (“R”) applies to become a registered patient of the contractor, the contractor must, as part of the registration process—

- (a) make information available to R about the practice’s digital services and about how R may interact with the practice via online access; and
- (b) inform R in writing that on becoming a registered patient, R will be provided with the facility to access R’s prospective medical record (unless R chooses not to be provided with that facility).

(4) The contractor must configure its computerised clinical systems so as to allow its registered patients the facility to access online information entered onto their medical record.

(5) In this regulation, “relevant date” means—

- (a) if the contractor has not provided P with the facility to access online P’s prospective medical record under this regulation as in force immediately before 15th May 2023, the day on which the contractor does provide the facility under paragraph (1)(a); or
- (b) 31st October 2023,

whichever is the earlier.

(6) Where—

- (a) the contractor has not, before 15th May 2023, provided P with the facility to access online P’s prospective medical record; and
- (b) P makes a request in writing to the contractor on or after 15th May 2023 but before 31st October 2023, to be provided with that facility,

the contractor must provide that facility to P by the end of the compliance period or by 31st October 2023 whichever is the earlier.

(7) Where—

- (a) the contractor has not, before 1st November 2023, for whatever reason, provided P with the facility to access online P’s prospective medical record; and
- (b) P makes a request in writing to the contractor on or after 31st October 2023 to be provided with that facility,

the contractor must provide P with that facility by the end of the compliance period.

(8) Subject to paragraph (9), the contractor must not remove the facility of a registered patient to access online their medical record provided under—

- (a) this regulation as in force immediately before 15th May 2023; or

- (b) paragraph (1).
- (9) Nothing in this regulation requires the contractor to provide P with the facility to access—
 - (a) online information entered onto the medical record where that information is excepted information;
 - (b) online information entered onto P’s prospective medical record where P has informed the contractor that they do not, or no longer, wish to be provided with that facility; or
 - (c) information referred to in paragraph (1)(b) which the contractor’s computerised systems cannot separate from any free-text entry in P’s medical record.
- (10) For the purposes of this regulation and regulation 71ZB—
 - (a) “the compliance period” means the period specified in Article 12 of the UK GDPR for compliance with a request made in exercise of a right under Article 15 of the UK GDPR;
 - (b) information is “excepted information” if the contractor would not be required to disclose it in response to a request made in exercise of a right under Article 15 of the UK GDPR.
- (11) For the purposes of paragraph (10), “UK GDPR” has the meaning given in section 3(10) of the Data Protection Act 2018(1).”.

Patient online services: provision of online access to full digital medical record

6.—(1) Regulation 71ZB (patient online services: provision of online access to full digital medical record) is amended as follows.

- (2) In paragraph (1)(a), omit “and redaction software”.
- (3) After paragraph (1) insert—
 - “(1A) Where P makes a request under paragraph (1)(b), the contractor must provide P with the facility by the end of the compliance period.
 - (1B) The contractor must configure its computerised clinical systems so as to allow its registered patients the facility to access online their relevant medical information.”.
- (4) In paragraph (2)(a), for “offered in accordance with regulation 71ZA(1) or (2)” substitute “provided in accordance with regulation 71ZA(1)”.

Patient online services: provision of an online consultation tool

7. In regulation 71ZD (patient online services: provision of an online consultation tool), in paragraph (3)—

- (a) in sub-paragraph (a), after “offer” insert “, promote or, as the case may be, provide”;
- (b) in sub-paragraph (b), after “offer” insert “and promote”.

Patient access to online services

8. In regulation 71A (patient access to online services), in paragraph (1), for “promote and offer” substitute “promote, offer or, as the case may be, provide”.

(1) 2018 c. 12. Section 3(10) is amended, with effect from IP completion day, by S.I. 2019/419. “IP completion day” has the meaning given in section 39(1) of the European Union (Withdrawal Agreement) Act 2020 (c. 1).

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New telephone contract or arrangements

9. After paragraph 2 of Schedule 3 insert—

“New telephone contract or arrangement

2A. The contractor must ensure that any new contract or other arrangement relating to telephone services used by—

- (a) patients to contact the contractor’s practice for a purpose related to the contract; or
- (b) any other person to contact the contractor’s practice in relation to services provided as part of the health service,

is with a supplier specified in the Advanced Telephony Better Purchasing framework(2).”.

Contact with the practice

10. For paragraph 4 of Schedule 3 substitute—

“Contact with the practice

4.—(1) The contractor must take steps to ensure that a patient who contacts the contractor—

- (a) by attendance at the contractor’s practice premises;
- (b) by telephone;
- (c) through the practice’s online consultation tool within the meaning given in regulation 71ZD(2); or
- (d) through a relevant electronic communication method within the meaning given in regulation 71ZE(3),

is provided with an appropriate response in accordance with the following sub-paragraphs.

(2) The appropriate response is that the contractor must—

- (a) invite the patient for an appointment, either to attend the contractor’s practice premises or to participate in a telephone or video consultation, at a time which is appropriate and reasonable having regard to all the circumstances, and the patient’s health would not thereby be jeopardised;
- (b) provide appropriate advice or care to the patient by another method;
- (c) invite the patient to make use of, or direct the patient towards, appropriate services which are available to the patient, including services which the patient may access themselves; or
- (d) communicate with the patient—
 - (i) to request further information; or
 - (ii) as to when and how the patient will receive further information on the services that may be provided to them, having regard to the urgency of their clinical needs and other relevant circumstances.

(3) The appropriate response must be provided—

- (a) if the contact under sub-paragraph (1) is made outside core hours, during the following core hours;

(2) <https://buyingcatalogue.digital.nhs.uk/advanced-telephony-better-purchase>. Hard copies are available from NHS England, Quarry House, Leeds, LS2 7UE.

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- (b) in any other case, during the day on which the core hours fall.
- (4) The appropriate response must take into account—
 - (a) the needs of the patient; and
 - (b) where appropriate, the preferences of the patient.”.