
STATUTORY INSTRUMENTS

1996 No. 841

The National Health Service (General Dental Services) (Scotland) Amendment Regulations 1996

PART I

**APPEALS FROM DECISIONS OF THE
SCOTTISH DENTAL PRACTICE BOARD**

Amendment of regulation 33

4.—(1) After regulation 34 there shall be inserted the following new Part—

“PART VIIA

**APPEALS FROM DECISIONS OF THE
SCOTTISH DENTAL PRACTICE BOARD**

Appeals from decisions of the Board

34A.—(1) This regulation applies to appeals which are permitted by paragraph (2) against decisions of the Board.

(2) Subject to paragraph (3), an appeal may be made to a Health Board in whose dental list the name of the dentist concerned is included—

- (a) by any person aggrieved by a decision of the Board concerning the treatment or intended treatment by the dentist concerned of a patient; or
- (b) by any dentist aggrieved by a decision of the Board—
 - (i) concerning fees in respect of his provision or intended provision of general dental services; or
 - (ii) under regulation 33 (prior approval—patterns of treatment).

(3) Where the name of the dentist concerned in any appeal under paragraph (2) is included in the dental list of more than one Health Board, the appeal may be made—

- (a) in the case of an appeal under paragraph (2)(a), to the Health Board in whose area the treatment or intended treatment of the patient is or would be provided;
- (b) in the case of an appeal by a dentist under paragraph (2)(b)(i), to the Health Board in whose area the treatment or intended treatment of the patient is or would be provided;
- (c) in the case of an appeal by a dentist under paragraph (2)(b)(ii)—
 - (i) in which the decision of the Board under regulation 33 was based on their opinion that the dentist’s pattern of treatment in question differed substantially from the local pattern of treatment of other dentists, to the Health Board in

whose area the pattern of treatment of other dentists has been the subject of comparison; or

- (ii) in which the decision of the Board under regulation 33 was based on their opinion that the dentist's pattern of treatment in question differed substantially from the pattern of treatment of other dentists throughout Scotland, to any of the Health Boards in whose dental list the dentist's name is included.

(4) For the purposes of this regulation, the parties to an appeal are the Board and the appellant, being the aggrieved person or dentist as the case may be.

(5) Notice of appeal shall—

- (a) be given to the Health Board in writing;
- (b) except where the Health Board are satisfied that the lateness of the appeal is due to illness or other reasonable cause, be given within 4 weeks from the date on which the appellant received notice of the decision of the Board;
- (c) state the date on which the appellant was informed of that decision; and
- (d) contain a concise statement of the facts and contentions upon which it is intended to rely.

(6) The Health Board shall, within 4 weeks from the date of receipt of the notice of appeal, request from the Board a written statement of the reasons for their decision and the Board shall, within 4 weeks from the date of receipt of that request, send such a statement to the Health Board.

(7) Subject to paragraph (8), the Health Board shall consider the notice of appeal and the statement of the Board and—

- (a) where the appeal is against a refusal of the Board to approve an estimate or a claim for remuneration on the ground that the services to which the estimate or claim relate cannot be provided as part of general dental services, they shall refer the notice of appeal and the Board's statement to the Secretary of State, and on referring the appeal the Health Board shall inform the parties of the referral;
- (b) where in an appeal by a dentist against a decision of the Board concerning fees, the Board certifies in its statement that it authorised those fees and that they were fees or maximum fees prescribed by Determination I of the Statement of Dental Remuneration published by the Secretary of State under regulation 22 (statement of dental remuneration) for the services provided or to be provided, the Health Board shall dismiss the appeal forthwith unless they are of the opinion that it involves a dispute as to the item or sub-item of treatment in that Determination applicable to those services;
- (c) except where an appeal is dismissed or referred in accordance with the preceding provisions of this paragraph, the Health Board shall, within 4 weeks from the date of receipt of the Board's statement, appoint—

- (i) where the appeal is made under paragraph (2)(b)(ii), 3 dentists;

- (ii) in an appeal under paragraph (2)(a) or (b)(i), 2 dentists,

as referees to determine the appeal, one of whom they shall select from a panel of dental practitioners who are engaged in the provision of general dental services and who is nominated by the area dental committee, failing which the area dental committee for the area of another Health Board.

(8) Where, after considering the notice of appeal and the statement of the Board, the Health Board are of the opinion that the notice of appeal discloses no reasonable grounds of appeal or that the appeal is otherwise trivial or vexatious, the Health Board shall—

- (a) consult with the area dental committee; and
- (b) following such consultation, either—
 - (i) determine the appeal by dismissing it forthwith; or
 - (ii) if the Health Board consider it desirable to do so, appoint referees in terms of paragraph (7)(c) to determine the appeal.
- (9) Where the Health Board dismiss an appeal pursuant to paragraph (7) or (8), they shall—
 - (a) inform the parties of their decision by sending them a copy of it together with their reasons for it; and
 - (b) in the case of a dismissal under paragraph (7)(b), send to the appellant a copy of the Board’s statement.
- (10) Where an appeal is referred to the Secretary of State pursuant to paragraph (7)(a), the Secretary of State shall—
 - (a) determine the appeal in such manner as he thinks fit; and
 - (b) as soon as may be practicable after he has determined the appeal, which shall be final and conclusive, inform the parties and the Health Board of his decision by sending them a copy of it together with his reasons for it.
- (11) Where, pursuant to paragraph (7)(c), the Health Board appoint referees to determine the appeal, the Health Board shall—
 - (a) at least 2 weeks before the hearing (or within such shorter period as the parties may agree), give written notice to the parties of the date, time and place of the hearing and of the names of the referees;
 - (b) at least 7 days before the hearing (or within such shorter period as the parties may agree), provide—
 - (i) the referees and the appellant with a copy of the Board’s statement; and
 - (ii) the referees and the Board with a copy of the notice of appeal.
- (12) Where the parties to an appeal, to whom notice of a hearing has been sent pursuant to paragraph (11), notify the Health Board in writing prior to the date of the hearing, that they do not intend to make oral representations at a hearing—
 - (a) the Health Board shall inform the referees forthwith; and
 - (b) the referees shall thereafter determine the appeal without holding a hearing.
- (13) Subject to paragraph (14), if in the course of a hearing a party introduces any issue which in the opinion of the referees was not sufficiently disclosed in the notice of appeal by the appellant or statement by the Board, the referees may as they think fit admit such issue.
- (14) Where the referees intend to admit an issue pursuant to paragraph (13), the hearing shall be adjourned for such period as the referees consider necessary unless the other party requests that the hearing should proceed and the referees agree to do so.
- (15) As soon as may be practicable after—
 - (a) receiving notification under paragraph (12) that a hearing is not necessary; or
 - (b) a hearing has been held,the referees shall determine the appeal and notify the Health Board in writing of their decision, which shall be final and conclusive, and their reasons for it.
- (16) After the Health Board receive notice of the referees' decision pursuant to paragraph (15), they shall, within 2 weeks from the date of receipt of that notice, send a copy of it to each of the parties.”.

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

(2) Regulation 20 of the National Health Service (Service Committee and Tribunal) (Scotland) Regulations 1992⁽¹⁾ (“the old regulation”) is hereby revoked.

(3) Appeals brought under regulation 20 of the old regulation before 1st April 1996 shall be treated on and after that date as brought under regulation 34A of the National Health Service (General Dental Services) (Scotland) Regulations 1996 (“the new regulation”) except that paragraph (7)(c) of the old regulation, instead of paragraph (7)(c) of the new regulation, shall apply.

⁽¹⁾ S.I. 1992/434 to which there are amendments not relevant to these Regulations.