

2013 No. 475

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service (Charges for Drugs and Appliances), (Dental Charges) and (Travel Expenses and Remission of Charges) (Amendment) Regulations 2013

Made - - - - *4th March 2013*

Laid before Parliament *7th March 2013*

Coming into force in accordance with regulation 1(2)

The Secretary of State for Health makes these Regulations in exercise of the powers conferred by sections 172, 176, 182, 183, 184, 188 and 272(7) and (8) of the National Health Service Act 2006(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Charges for Drugs and Appliances), (Dental Charges) and (Travel Expenses and Remission of Charges) (Amendment) Regulations 2013.

(2) These regulations come into force on 1st April 2013, except for—

(a) in regulation 17, paragraphs (2) and (5), the definition of “qualifying young person” in paragraph (7), and paragraphs (8) and (9), and regulation 19(2), which come into force on 29th April 2013; and

(b) regulation 24(2) which comes into force on 8th April 2013.

(3) In these Regulations—

“the Charges Regulations” means the National Health Service (Charges for Drugs and Appliances) Regulations 2000(b);

“the Dental Charges Regulations” means the National Health Service (Dental Charges) Regulations 2005(c); and

(a) 2006 c.41. Section 183 has been amended by S.I. 2010/915 and section 55(1) of, and paragraphs 98(1) to (4) of Schedule 4 to, the Health and Social Care Act 2012 (c.7). Section 188 has been amended by section 55(1) of and paragraph 102 of Schedule 4 to, the Health and Social Care Act 2012. By virtue of section 271(1) of the Act the powers being exercised by the Secretary of State in the making of these Regulations are exercisable only in relation to England. *See* section 275(1) of the Act for the definitions of “prescribed” and “regulations”.

(b) S.I. 2000/620; amended by S.I. 2000/3189, 2001/2887, 2002/548, 2002/2352, 2003/699, 2003/1084, 2004/663, 2004/696, 2004/865, 2005/578, 2006/552, 2006/675, 2006/913, 2007/1510, 2007/1975, 2008/571, 2008/1697, 2008/1700, 2008/2593, 2009/29, 2009/411, 2009/1166, 2009/2230, 2010/231, 2010/1727, 2011/518, 2012/470, 2012/1479, 2012/1909 and 2012/1916.

(c) S.I. 2005/3477; amended by S.I. 2006/1837, 2007/544, 2008/547, 2009/407, 2011/519 and 2012/502.

“the Travel Expenses and Remission of Charges Regulations” means the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(a).

Amendment of the Charges Regulations to increase charges

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

(2) In each of the following provisions, for “£7.65” at each place that it occurs substitute “£7.85”—

- (a) regulation 3(1)(a) and (b), (1A)(b)(i) and (ii) and (4) (charges for the supply of drugs and appliances by chemists);
- (b) regulation 4(1)(a) and (b) and (4) (charges for the supply of drugs and appliances by doctors);
- (c) regulation 4A(1)(a) and (b) (charges for the out of hours supply of drugs and appliances by providers of out of hours services);
- (d) regulation 5(1)(a) and (d) and (5) (charges for the supply of drugs and appliances by NHS trusts, NHS foundation trusts and Primary Care Trusts);
- (e) regulation 6(1)(a) and (b) and (4) (charges for the supply of drugs and appliances at Walk-in Centres); and
- (f) regulation 6A(1) (charges for the supply of drugs under Patient Group Directions).

(3) In each of the following provisions, for “£15.30” at each place that it occurs substitute “£15.70”—

- (a) regulation 3(1)(a) and (1A)(b)(i) (charge for the supply of a pair of elastic hosiery by chemists);
- (b) regulation 4(1)(a) (charge for the supply of a pair of elastic hosiery by doctors);
- (c) regulation 4A(1)(a) (charge for the out of hours supply of a pair of elastic hosiery by providers of out of hours services);
- (d) regulation 5(1)(a) and (c) (charge for the supply of a pair of elastic hosiery or tights by NHS trusts, NHS foundation trusts and Primary Care Trusts); and
- (e) regulation 6(1)(a) (charge for the supply of a pair of elastic hosiery at Walk-in Centres).

(4) In column (2) of Schedule 1 (charges for fabric supports and wigs)—

- (a) for “£25.70” substitute “£26.35”;
- (b) for “£38.80” substitute “£39.75”;
- (c) for “£63.35” substitute “£64.95”;
- (d) for “£167.85” substitute “£172.00”; and
- (e) for “£245.40” substitute “£251.55”.

Transitional provision relating to the Charges Regulations

3. Where, on or after 1st April 2013, any appliance specified in Schedule 1 to the Charges Regulations (charges for fabric supports and wigs) is supplied pursuant to an order given before that date, the Charges Regulations are to have effect in relation to that supply as if these Regulations had not come into force.

Amendment of regulation 2 of the Charges Regulations

4.—(1) Regulation 2 of the Charges Regulations (interpretation) is amended as follows.

(a) S.I. 2003/2382; amended by S.I. 2004/663, 2004/696, 2004/936, 2005/26, 2005/578, 2005/2114, 2006/562, 2006/675, 2006/1065, 2006/2171, 2007/1898, 2007/1975, 2007/2590, 2008/571, 2008/1697, 2008/1700, 2008/2868, 2009/411, 2009/1599, 2010/620, 2010/1727, 2011/1587 and 2012/1650.

- (2) After the definition of “accepted disablement”, insert the following definition—
- ““another primary care organisation” means—
- (a) as regards Wales—
 - (i) a Local Health Board, or
 - (ii) in relation to any time prior to 1st April 2003, a Health Authority;
 - (b) as regards Scotland, a Health Board;
 - (c) as regards Northern Ireland—
 - (i) the Regional Health and Social Care Board, or
 - (ii) in relation to any time prior to 1st April 2010, a Health and Social Services Board; and
 - (d) as regards England in relation to any time prior to 1st April 2013, a Primary Care Trust;”.
- (3) For the definition of “appliance”, substitute the following definition—
- ““appliance” means an appliance included in a list approved by the Secretary of State for the purposes of section 126 of the 2006 Act^(a) (arrangements for pharmaceutical services), but does not include a contraceptive appliance;”.
- (4) After the definition of “appliance”, insert the following definition—
- ““arrangements for recharging” means arrangements under paragraph 3 of Schedule 12A to the 2006 Act^(b) (pharmaceutical remuneration-other pharmaceutical remuneration) under which the Board requires a person to reimburse it for any pharmaceutical remuneration to which that paragraph applies;”.
- (5) For the definition of “batch issue”, substitute—
- ““batch issue” means a form, in the format required by the Board (or a person exercising its functions) and approved by the Secretary of State, which—
- (a) is issued by a prescriber at the same time as a non-electronic repeatable prescription to enable a chemist or a dispensing doctor to receive payment for the provision of repeat dispensing services;
 - (b) relates to a particular non-electronic repeatable prescription and contains the same date as that prescription;
 - (c) is generated by a computer and not signed by a prescriber;
 - (d) is issued as one of a sequence of forms, the number of which is equal to the number of occasions on which the drugs or appliances ordered on the non-electronic repeatable prescription may be provided; and
 - (e) has included on it a number denoting its place in the sequence referred to in paragraph (d);”.
- (6) After the definition of “batch issue”, insert the following definition—
- ““CCG” means a clinical commissioning group;”.
- (7) For the definition of “chemist”, substitute—
- ““chemist” means an NHS chemist or an LPS chemist;”.
- (8) After the definition of “chemist”, insert the following definition—
- ““chiroprapist or podiatrist independent prescriber” means a chiroprapist or podiatrist who is registered in Part 2 of the register maintained under article 5 of the Health and Social Work Professions Order 2001^(c) (establishment and maintenance of register),

(a) See section 126(9) of that Act, which provides a definition of “listed” that includes the power for the Secretary of State to approve lists for the purposes of section 126.

(b) Schedule 12A was inserted by Schedule 3 to the Health and Social Care Act 2012 (c.7).

(c) S.I. 2002/254; article 5 has been amended by S.I. 2009/1182. The Order was so renamed by section 213(1), (4) and (6) of the Health and Social Care Act 2012.

and against whose name in that register is recorded an annotation signifying that the chiropodist or podiatrist is qualified to order drugs and appliances as a chiropodist or podiatrist independent prescriber;”.

(9) After the definition of “community treatment order”, insert the following definition—

““court” means any court in which criminal proceedings against a person are heard;”.

(10) In sub-paragraph (b) of the definition of “detainee”, for “by, or under” to the end of sub-paragraph (b), substitute “under arrangements made by the Board pursuant to Parts 4 to 7 of the 2006 Act or regulation 10 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 (services for prisoners and other detainees)(a),”.

(11) For the definition of “dispensing services”, substitute—

““dispensing services” means services arising out of which a prescriber completed a prescription form provided under the terms of a GMS contract under Part 3 of Schedule 6 to the GMS Contract Regulations or under the terms of a PMS agreement under Part 3 of Schedule 5 to the National Health Service (Personal Medical Services Agreements) Regulations 2004;”.

(12) After the definition of “detainee”, insert the following definitions—

““directed services” means additional pharmaceutical services provided in accordance with directions under section 127 of the 2006 Act(b);

“dispensing doctor” is to be construed in accordance with regulation 46(1) of the Pharmaceutical Services Regulations (dispensing doctor lists);”.

(13) Omit the definition of “Drug Tariff”.

(14) For the definitions of “electronic prescription form” and “electronic repeatable prescription”, substitute the following definitions—

““electronic prescription form” means data created in an electronic form for the purpose of ordering a drug or appliance, which—

(a) is compatible with the systems used by the Board (or a person exercising its functions) for—

(i) the remuneration of persons providing pharmaceutical services, and

(ii) any apportionment of, or any arrangements for recharging in respect of, that remuneration,

unless the chemist or dispensing doctor dispensing the prescription is to receive no pharmaceutical remuneration of any kind in respect of any drug or appliance ordered on the form;

(b) is signed with a prescriber’s advanced electronic signature;

(c) is transmitted as an electronic communication to a nominated dispensing contractor by the Electronic Prescription Service; and

(d) does not indicate that the drug or appliance ordered may be provided more than once;

“electronic repeatable prescription” means data created in an electronic form, which—

(a) is signed with a prescriber’s advanced electronic signature;

(b) is transmitted as an electronic communication to a nominated dispensing contractor by the Electronic Prescription Service;

(a) S.I. 2012/2996; regulation 10 has been amended by S.I. 2013/261.

(b) Section 127 has been amended by section 55(1) of, and paragraphs 64(1) to (4) of Schedule 4 to, the Health and Social Care Act 2012.

- (c) indicates that the drugs or appliances ordered may be provided more than once; and
 - (d) specifies the number of occasions on which they may be provided;”.
- (15) For the definition of “ETP service”, substitute the following definition—
 ““Electronic Prescription Service” means the service of that name which is managed by the Information Centre;”.
- (16) After the definition of “electronic signature”, insert the following definition—
 ““enhanced services” means the directed services which the Board is authorised (as opposed to required) to arrange by virtue of directions under section 127 of the 2006 Act;”.
- (17) In the definition of “GMS contract”, omit “under section 28Q of the Act”.
- (18) After the definition of “GMS contract”, insert the following definition—
 ““Health Board”, except in the context of “Local Health Board”, means a Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978(a) (Health Boards);”.
- (19) After the definition of “independent nurse prescriber”, insert the following definition—
 ““Information Centre” means the Health and Social Care Information Centre established under section 252 of the Health and Social Care Act 2012 (the Health and Social Care Information Centre);”.
- (20) Omit the definition of “local pharmaceutical services”.
- (21) Immediately prior to the definition of “mental disorder”, insert the following definitions—
 ““LPS chemist” means a party to an LPS scheme other than the commissioning body;
 “LPS scheme” includes a pilot scheme within the meaning given in section 134(2) of the 2006 Act (pilot schemes);”.
- (22) Omit the definitions of “NHS Care Record” and “NHS Care Record Service”.
- (23) After the definition of “mental disorder”, insert the following definitions—
 ““NHS chemist” means a person included in a pharmaceutical list of the type referred to in regulation 10(2)(a) or (b) of the Pharmaceutical Services Regulations (pharmaceutical lists and EPS lists);
 “NHS services” means services provided as part of the health service (including services provided as part of the health service in pursuance of the public health functions of the Secretary of State or local authorities);
 “nominated dispensing contractor” means a chemist or a dispensing doctor who has been nominated in a particular patient’s PDS patient details to dispense the electronic prescriptions of that patient;”.
- (24) For the definition of “non-electronic prescription form”, substitute the following definition—
 ““non-electronic prescription form” means a form for ordering a drug or appliance which—
 (a) is compatible with the systems used by the Board (or a person exercising its functions) for—
 (i) the remuneration of persons providing pharmaceutical services, and

(a) 1978 c. 29. Section 2 has been amended by: the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 7, paragraph 1; the National Health Service and Community Care Act 1990 (c.19), section 28, Schedule 9, paragraph 19(1), and Schedule 10; the National Health Service Reform (Scotland) Act 2004 (asp 7), Schedule 1, paragraph 1(2); the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), Schedule 2, paragraph 2(2); and the Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5), section 2(1).

- (ii) any apportionment of, or any arrangements for recharging in respect of, that remuneration,
unless the chemist or dispensing doctor dispensing the prescription is to receive no pharmaceutical remuneration of any kind in respect of any drug or appliance ordered on the form;
- (b) has been provided for use by a prescriber by—
 - (i) the Board,
 - (ii) another primary care organisation,
 - (iii) a local authority, under arrangements for providing NHS services which include, with the consent of the Board, the dispensing of prescriptions as part of pharmaceutical or local pharmaceutical services,
 - (iv) the Secretary of State,
 - (v) a CCG, under arrangements for providing NHS services which include, with the consent of the Board, the dispensing of prescriptions as part of pharmaceutical or local pharmaceutical services,
 - (vi) an NHS trust, or
 - (vii) an NHS foundation trust;
- (c) if—
 - (i) it has been so provided for use by a prescriber in England, and
 - (ii) a prescription charge may be payable in relation to the prescription or a prescription charge exemption in these Regulations may apply to it,
is in a format that has been approved by the Secretary of State;
- (d) has been issued by a prescriber; and
- (e) does not indicate that the drug or appliance ordered may be provided more than once;”.

(25) For the definition of “non-electronic repeatable prescription”, substitute the following definition—

““non-electronic repeatable prescription” means a repeatable prescription which is not an electronic repeatable prescription;”.

(26) After the definition of “optometrist independent prescriber” insert the following definition—

““other secure accommodation” means—

- (a) a court;
- (b) a secure training centre; or
- (c) a secure children’s home;”.

(27) Omit the definition of “patient”.

(28) After the definition of “Patient Group Direction”, insert the following definitions—

““PDS patient details” means the information held about a patient in the Patient Demographics Service managed by the Information Centre;

“person detained in other secure accommodation” means a person who is detained in other secure accommodation in which medical, dental, ophthalmic, pharmaceutical or nursing services are provided under the 2006 Act under arrangements made by the Board pursuant to Parts 4 to 7 of the 2006 Act or regulation 10 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012;”.

(29) After the definition of “pharmacist independent prescriber”, insert the following definition—

““the Pharmaceutical Services Regulations” means the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013;”.

(30) For the definition of “pharmacist independent prescriber”, substitute the following definition—

““pharmacist independent prescriber” means a registered pharmacist (P)—

- (a) against whose name in Part 1 of the register maintained under article 19 of the Pharmacy Order 2010^(a) (establishment, maintenance of and access to the register) or in the register maintained under Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976^(b) (which relate to the registers and the registrar) is recorded an annotation signifying that P is qualified to order drugs and appliances as a pharmacist independent prescriber; and
- (b) who is prescribing under arrangements for the provision of NHS services, but for these purposes those arrangements must not be arrangements for the provision of—
 - (i) pharmaceutical services, unless they are arrangements for the provision of enhanced services, or
 - (ii) local pharmaceutical services, unless they are arrangements that have been made by the Board with an LPS chemist for the provision of services that are equivalent to services provided as enhanced services;”.

(31) After the definition of “pharmacist independent prescriber”, insert the following definition—

““physiotherapist independent prescriber” means a physiotherapist who is registered in Part 9 of the register maintained under article 5 of the Health and Social Work Professions Order 2001, and against whose name in that register is recorded an annotation signifying that the physiotherapist is qualified to order drugs and appliances as a physiotherapist independent prescriber;”.

(32) In the definition of “PMS agreement” for “section 28C of the Act” substitute “section 92 of the 2006 Act (arrangements by the Board for the provision of primary medical services)”.

(33) For the definition of “prescriber” substitute—

““prescriber” means a doctor, a dental practitioner, a pharmacist independent prescriber, a supplementary prescriber, a chiroprapist or podiatrist independent prescriber, a physiotherapist independent prescriber, an independent nurse prescriber or an optometrist independent prescriber;”.

(34) For the definition of “prescription form”, substitute the following definition—

““prescription form”, except in the context of the expression “electronic prescription form” or “non-electronic prescription form”, means an electronic prescription form or a non-electronic prescription form;”.

(35) For the definition of “prison” substitute—

““prison” includes a young offender institution but not a naval, military or air force prison;”.

(36) In the definition of “prisoner”, for “under the Act” to the end of the definition, substitute “under the 2006 Act under arrangements made by the Board pursuant to Parts 4 to 7 of the 2006 Act or regulation 10 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012;”.

(37) After the definition of “prisoner”, insert the following definition—

““provider of NHS services” means a person or body which provides services under the 2006 Act pursuant to arrangements made with—

(a) S.I. 2010/231.

(b) S.I. 1976/1213 (N.I. 22).

- (a) the Board;
- (b) a CCG;
- (c) an NHS trust;
- (d) an NHS foundation trust;
- (e) a local authority in the exercise of its public health functions under sections 2B (functions of local authorities and Secretary of State as to improvement of public health) and 111 (dental public health) of, and paragraphs 1 to 7B and 13 of Schedule 1 (further provision about the Secretary of State and services under this Act) to, and pursuant to regulations made under section 6C (regulations as to the exercise by local authorities of certain public health functions) of, the 2006 Act(a);
- (f) the Secretary of State when exercising the public health functions of the Secretary of State (as defined in section 1H(5)(a) of the 2006 Act(b) (the Board and its commissioning functions)).”.

(38) In the definition of “provider of out of hours services”—

(a) for the definition of “APMS contractor”, substitute—

““APMS contractor” means a person or partnership that provides primary medical services under contractual arrangements with the Board under section 83(2) of the 2006 Act (primary medical services)(c), and “APMS” contract is to be construed accordingly;”;

(b) omit sub-paragraph (b); and

(c) omit the definition of “practice”.

(39) After the definition of “provider of out of hours services”, insert the following definitions—

““Regional Health and Social Care Board” means the Regional Health and Social Care Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009(d) (Regional Health and Social Care Board);

“registered pharmacist” means a person who is registered in Part 1 or 4 of the register maintained under article 19 of the Pharmacy Order 2010 or in the register maintained under articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976;”.

(40) Omit the definition of “repeatable prescriber”.

(41) For the definition of “repeatable prescription”, substitute the following definition—

““repeatable prescription” means an electronic repeatable prescription or a form for ordering drugs or appliances which—

(a) is compatible with the systems used by the Board (or a person exercising its functions) for—

(i) the remuneration of persons providing pharmaceutical services, and

(ii) any apportionment of, or any arrangements for recharging in respect of, that remuneration,

unless the chemist or dispensing doctor dispensing the prescription is to receive no pharmaceutical remuneration of any kind in respect of any drug or appliance ordered on the form;

(b) has been provided for use by a prescriber by—

(i) the Board,

(a) Section 2B was inserted by section 12 of the Health and Social Care Act 2012 (“the 2012 Act”). Section 6C was inserted by section 18(1) of the 2012 Act. Section 111 was amended by section 29(1) and (2) of the 2012 Act. Paragraphs 7A and 7B of Schedule 1 were inserted by section 143(1) of the 2012 Act. Paragraph 13 of Schedule 1 was substituted by section 17(2) and (13) of the 2012 Act.

(b) Section 1H was inserted by section 9(1) of the 2012 Act.

(c) Section 83(2) was substituted by section 55(1) of, and paragraph 30(2) of Schedule 4 to, the Health and Social Care Act 2012.

(d) 2009 c.1 (N.I.).

- (ii) another primary care organisation,
- (iii) a local authority, under arrangements for providing NHS services which include, with the consent of the Board, the dispensing of prescriptions as part of pharmaceutical or local pharmaceutical services,
- (iv) the Secretary of State,
- (v) a CCG, under arrangements for providing NHS services which include, with the consent of the Board, the dispensing of prescriptions as part of pharmaceutical or local pharmaceutical services,
- (vi) an NHS trust, or
- (vii) an NHS foundation trust;
- (c) if—
 - (i) it has been so provided for use by a prescriber in England, and
 - (ii) a prescription charge may be payable in relation to the prescription or a prescription charge exemption in these Regulations may apply to it,
 is in a format that has been approved by the Secretary of State;
- (d) has been issued by a prescriber;
- (e) indicates that the drugs or appliances ordered may be provided more than once; and
- (f) specifies the number of occasions on which they may be provided;”.

(42) After the definition of “repeatable prescription”, insert the following definitions—

““secure children’s home” means accommodation which is provided in a children’s home, within the meaning of the Care Standards Act 2000(a), which provides accommodation for the purposes of restricting liberty and in respect of which a person is registered under Part 2 of that Act;

“secure training centre” means a place in which offenders in respect of whom detention and training orders have been made under section 100 of the Powers of Criminal Courts (Sentencing) Act 2000(b) (offenders under 18: detention and training orders) may be detained and given training and education and prepared for their release and in which children who have been remanded to youth detention accommodation under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 may be detained;”.

(43) For the definition of “supplementary prescriber”, substitute the following definition—

““supplementary prescriber” means—

- (a) a registered pharmacist against whose name in Part 1 of the register maintained under article 19 of the Pharmacy Order 2010 or in the register maintained under Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976 is recorded an annotation signifying that they are qualified to order drugs and appliances as a supplementary prescriber;
- (b) a person—
 - (i) who is registered in a part of the register maintained under article 5 of the Health and Social Work Professions Order 2001(c) (establishment and maintenance of register) which relates to chiropodists and podiatrists, physiotherapists or radiographers, and

(a) 2000 c. 14.

(b) 2000 c. 6 Section 100 was amended by paragraph 184 of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c.43), by paragraph 111 of Schedule 32 to the Criminal Justice Act 2003 (c.44), and by paragraph 11 of Schedule 26 and paragraph 13 of Schedule 21 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10).

(c) S.I. 2002/254; article 5 has been amended by S.I. 2009/1182. This Order was so renamed by section 213(4) and (6) of the Health and Social Care Act 2012 (c. 7).

- (ii) against whose name in that register is recorded an annotation signifying that they are qualified to order drugs and appliances as a supplementary prescriber;
or
- (c) an optometrist against whose name in the register of optometrists maintained under section 7 of the Opticians Act 1989^(a) (which relates to the register of optometrists and the register of dispensing opticians) is recorded an annotation signifying that the optometrist is qualified to order drugs and appliances as a supplementary prescriber;”.

(44) In the definition of “Walk-in Centre”, for “or on behalf of the Secretary of State” substitute “the Board or a CCG”.

(45) After the definition of “Walk-in Centre”, insert the following definition—

““young offender institution” means a place for the detention of offenders sentenced to detention in a young offender institution or to custody for life or other persons who may be lawfully detained there.”.

Amendment of regulation 3 of the Charges Regulations

5.—(1) Regulation 3 of the Charges Regulations (supply of drugs and appliances by chemists) is amended as follows.

(2) In paragraphs (2)(b), (2A)(b), (3)(a)(ia) and (ii) and (b)(ib) and (ii), for “a Primary Care Trust” substitute “the Board and approved by the Secretary of State”.

(3) In paragraph (3)(c), for “section 16CC(2) of the Act” substitute “section 83(2) of the 2006 Act (primary medical services)”.

(4) In paragraph (6), after “on the form”, insert “approved by the Secretary of State and”.

(5) In paragraph (7), for “a Primary Care Trust” substitute “the Board”.

Amendment of regulation 4 of the Charges Regulations

6.—(1) Regulation 4 of the Charges Regulations (supply of drugs and appliances by doctors) is amended as follows.

(2) In paragraphs (2)(b) and (3)(a) and (b), for “a Primary Care Trust” substitute “the Board and approved by the Secretary of State”.

(3) In paragraph (6), after “on the form”, insert “approved by the Secretary of State and”.

(4) In paragraph (7)—

(a) for “a Primary Care Trust” substitute “the Board”; and

(b) for “section 16CC(2) of the Act” substitute “section 83(2) of the 2006 Act (primary medical services), including under arrangements made under Part 8 of the Pharmaceutical Services Regulations (dispensing doctors), ”.

Amendment of regulation 4A of the Charges Regulations

7.—(1) Regulation 4A of the Charges Regulations (out of hours supply of drugs and appliances by providers of out of hours services) is amended as follows.

(2) In paragraph (6), for “a Primary Care Trust” substitute “the Board”.

(3) In paragraph (8), for “a Primary Care Trust” substitute “the Board, approved by the Secretary of State”.

(a) 1989 c.44; amended by S.I. 2005/848.

Amendment of regulation 5 of the Charges Regulations

8.—(1) Regulation 5 of the Charges Regulations (supply of drugs and appliances by Health Authorities, NHS trusts and Primary Care Trusts) is amended as follows.

(2) For the heading of regulation 5 substitute “Supply of drugs and appliances by NHS trusts and NHS foundation trusts”.

(3) In paragraph (1)—

- (a) for “, an NHS foundation trust or a Primary Care Trust”, substitute “or an NHS foundation trust”;
- (b) for “, otherwise than for administration at a hospital, or appliances,” substitute “or appliances, except in the case of drugs administered or appliances fitted at the hospital or other establishment or facility which forms part of the NHS trust or NHS foundation trust,”.

(4) In paragraph (3)—

- (a) for “regulation 7”, substitute “regulation 7(2); and
- (b) for “, NHS foundation trust or Primary Care trust”, substitute “or NHS foundation trust”.

(5) In paragraph (6)—

- (a) for “, NHS foundation trust or Primary Care Trust”, substitute “or an NHS foundation trust”; and
- (b) after “on the form”, insert “approved by the Secretary of State and”.

Amendment of regulation 6 of the Charges Regulations

9.—(1) Regulation 6 of the Charges Regulations (supply of drugs and appliances at walk-in centres) is amended as follows.

(2) In paragraphs (1) and (5), omit “, Primary Care Trust”;

(3) In paragraph (3), omit “or Primary Care Trust”.

(4) In paragraph (5), after “on the form” insert “approved by the Secretary of State and”.

Amendment of regulation 6A of the Charges Regulations

10. In paragraph (5) of regulation 6A of the Charges Regulations (supply of drugs under Patient Group Directions) after “on the form”, insert “approved by the Secretary of State and”.

Insertion of additional regulation into the Charges Regulations

11. After regulation 6A, insert the following regulation—

“Supply of drugs and appliances by other providers of NHS services

6B.—(1) A provider of NHS services who, otherwise than under regulations 3 to 6A, supplies drugs or appliances to a patient for the purposes of treatment must, subject to paragraphs (3) to (8), make and recover from the patient—

- (a) in respect of an item of elastic hosiery a charge of £7.85, that is to say a charge of £15.70 per pair;
- (b) in respect of an appliance specified in column (1) of Schedule 1, the charge specified in relation to it in column (2) of that Schedule;
- (c) in respect of tights, a charge of £15.70; and
- (d) in respect of the supply of each other appliance and each quantity of a drug, a charge of £7.85.

(2) Where a charge is paid under paragraph (1), the person making the payment must on doing so sign a declaration in writing that the relevant charge has been paid.

(3) No charge is to be made and recovered under this regulation from a patient who is exempt—

- (a) under section 173(1) of the 2006 Act;
- (b) under regulation 7(2); or
- (c) by reason of being entitled to remission under regulation 5 of the Travel Expenses and Remission of Charges Regulations,

and who, in the cases described in section 173(1)(c) of the 2006 Act and sub-paragraphs (b) and (c), completes a declaration of entitlement to such exemption or remission and provides such evidence of entitlement as the provider of NHS services who supplies the drugs or appliances to that patient may reasonably require.

(4) No charge is to be made and recovered under this regulation from a patient where the drugs supplied to the patient are administered, or the appliances supplied to the patient are fitted, at the hospital or other establishment or facility from which the provider of NHS services provides such services.

(5) No charge is to be made and recovered under this regulation where the drug or appliance supplied is administered or applied to the patient personally by a person employed by, or contracted to provide services for, a provider of NHS services.

(6) No charge is to be made and recovered under this regulation from a patient who is accepted by the person supplying the drug as—

- (a) suffering from tuberculosis, in respect of any drug supplied to that patient for the treatment of tuberculosis; or
- (b) being subject to a community treatment order, in respect of any drug supplied to that patient for the treatment of a mental disorder.

(7) No charge is to be made and recovered under this regulation in respect of a supply which is—

- (a) made—
 - (i) while a disease is, or
 - (ii) in anticipation of a disease being imminently, pandemic and a serious risk, or potentially a serious risk, to human health; and
- (b) in accordance with a protocol relating to that disease as provided for in regulation 247 of the Human Medicines Regulations 2012^(a)(exemption for supply in the event or anticipation of pandemic disease).

(8) A partially remitted charge must be made and recovered under this regulation from a patient who is entitled to partial remission under regulation 7(4) if a declaration in writing is provided that the relevant part of the charge has been paid and a declaration of entitlement, and such other evidence of entitlement, to partial remission as may be required is provided.

(9) For the purposes of this regulation, where a drug ordered on a single written direction is supplied by instalments, the charge of £7.85 payable for that drug is payable upon the supply of the first instalment.

(10) A provider of NHS services which makes and recovers a charge under this regulation must, if so required by the patient, give the patient a receipt for the amount received on the form approved by the Secretary of State and provided for the purpose, which form is to contain forms of declaration in support of an application for repayment and information as to whom an application for repayment is to be made.”.

(a) S.I. 2012/1916.

Amendment of regulation 7 of the Charges Regulations

12.—(1) Regulation 7 of the Charges Regulations (exemptions) is amended as follows.

(2) In paragraph (2)—

- (a) after “regulation 5”, insert “or 6B”; and
- (b) for “sub-paragraphs (c) to (g)” substitute “sub-paragraphs (a) to (g)”.

(3) In paragraph (3), for “or 6A(3)” substitute “, 6A(3) or 6B(3)”.

(4) In paragraph (3A)(a), for “NHS Care Record”, substitute “PDS patient details”.

(5) For paragraph (7), substitute—

“(7) Where a claim to exemption has been made but is not substantiated, and in consequence of the claim a charge has not been recovered—

- (a) if the drugs or appliances were supplied by a chemist pursuant to regulation 3 or by a doctor pursuant to regulation 4, then the Board must recover that charge from the person concerned;
- (b) if the drugs or appliances were supplied by an NHS trust or an NHS foundation trust pursuant to regulation 5, then that NHS trust or NHS foundation trust must recover that charge from the person concerned;
- (c) if the drugs or appliances were supplied under regulations 4A, 6, 6A or 6B, then the body which made the arrangements for the provision of services under the 2006 Act with the person or body which supplied the drugs or appliances must recover that charge from the person concerned.”.

Amendment of regulation 7A of the Charges Regulations

13.—(1) Regulation 7A of the Charges Regulations (exemption from charges for prisoners) is amended as follows.

(2) In paragraph (1) after “A prisoner”, insert “or a person detained in other secure accommodation”.

(3) In paragraph (2)—

(a) in sub-paragraph (a) after “prisoner”, insert “or a person detained in other secure accommodation”;

(b) for paragraph (ii) of sub-paragraph (b), substitute—

“(ii) the name and address of the—

(aa) prison in which the prisoner, or

(bb) other secure accommodation in which the person detained in other secure accommodation,

was issued with that non-electronic prescription form.”.

Amendment of regulation 10 of the Charges Regulations

14.—(1) Regulation 10 of the Charges Regulations (repayment of charges) is amended as follows.

(2) In paragraph (2)(a) and (d), for “or 6A(5)” substitute “, 6A(5) or 6B(10)”.

(3) In paragraph (3)—

(a) for “regulation 5” substitute “regulations 5 or 6B”; and

(b) for “Primary Care Trust”, in each place it appears, substitute “ other provider of NHS services”.

Amendment of regulation 11 of the Charges Regulations

15. In regulation 11 of the Charges Regulations (arrangements between NHS bodies and local authorities), in each place it appears, for “, NHS foundation trust or Primary Care Trust” substitute “or NHS foundation trust”.

Amendment of the Dental Charges Regulations

16.—(1) The Dental Charges Regulations are amended as follows.

(2) In regulation 4 (calculation of charges)—

- (a) in paragraph (1), for “£17.50” substitute “£18.00”;
- (b) in paragraph (2), for “£48.00” substitute “£49.00”;
- (c) in paragraph (3), for “£209.00” substitute “£214.00”;
- (d) in paragraph (4), for “£209.00” substitute “£214.00”; and
- (e) in paragraph (5), for “£17.50” substitute “£18.00”.

(3) In regulation 13A(a) (charges in respect of primary dental services provided under a Capitation and Quality Scheme 2 Agreement), in paragraph (2) for “£17.50” substitute “£18.00”.

Amendment of regulation 2 of the Travel Expenses and Remission of Charges Regulations

17.—(1) Regulation 2 of the Travel Expenses and Remission of Charges Regulations (interpretation) is amended as follows.

(2) After the definition of “the 2006 Act”, insert the following definition—

““the 2012 Act” means the Welfare Reform Act 2012(b);”.

(3) After the definition of “care home”, insert—

““CCG” means a clinical commissioning group;”.

(4) In the definition of “couple”, after “1992” insert “, except that in regulation 5(1)(f) it has the meaning given in section 39 of the 2012 Act (couples)”.

(5) After the definition of “health care professional”, insert—

““health service body” means an NHS trust, an NHS foundation trust, the Board or a CCG;”.

(6) After the definition of “provider”, insert the following definitions—

““the public health functions of the local authority” means the functions of a local authority under section 2B (functions of local authorities and Secretary of State as to improvement of public health) and 111 (dental public health) of, and paragraphs 1 to 7B of Schedule 1 (further provision about the Secretary of State and services under this Act) to, and pursuant to regulations made under section 6C (regulations as to the exercise by local authorities of certain public health functions) of, the 2006 Act;

“qualifying young person” has the meaning given in section 10(5) of the 2012 Act (responsibility for children and young persons);”.

(7) In the definition of “single person”, after “young person” insert “except that in regulation 5(1)(f) it is to be construed in accordance with section 1(2)(a) of the 2012 Act (universal credit)”.

(8) After the definition of “urgent course of treatment”, insert the following definition—

““universal credit” means universal credit under Part 1 of the 2012 Act;”.

(a) Regulation 13A is inserted by S.I. 2013/364.

(b) 2012 c.5.

Amendment of regulation 3 of the Travel Expenses and Remission of Charges Regulations

18.—(1) Regulation 3 of the Travel Expenses and Remission of Charges Regulations (NHS travel expenses) is amended as follows.

(2) Omit sub-paragraph (ii) of paragraph (1)(a).

(3) In sub-paragraph (b) of paragraph (1), for “under section 23” to the end of the sub-paragraph, substitute “under the 2006 Act by a health service body or a local authority.”.

(4) In paragraph (2), for “under section 23” to the end of the paragraph substitute “under the 2006 Act by a health service body or a local authority.”.

(5) In paragraph (6), after “health service body” insert “or local authority”.

Amendment of regulation 5 of the Travel Expenses and Remission of Charges Regulations

19.—(1) Regulation 5 of the Travel Expenses and Remission of Charges Regulations (entitlement to full remission and payment) is amended as follows.

(2) In paragraph (1)—

(a) at the end of sub-paragraph (d), omit “or”;

(b) in sub-paragraph (e), at the end of the sub-paragraph for “.” substitute “; or”; and

(c) after sub-paragraph (e), insert the following sub-paragraph—

“(f) during the period beginning on 29th April 2013 and ending on 31st October 2013—

(i) he is the recipient of an award of universal credit either as a single person or as a member of a couple,

(ii) he is a child or qualifying young person for whom a recipient referred to in paragraph (i) is responsible (within the meaning of Part 1 of the Welfare Reform Act 2012 and regulations made thereunder), or

(iii) he is a member of a couple, the other member of which is the recipient of an award of universal credit as a single person.”.

Amendment of regulation 10 of the Travel Expenses and Remission of Charges Regulations

20.—(1) Regulation 10 of the Travel Expenses and Remission of Charges Regulations (payment of NHS travel expenses) is amended as follows.

(2) For paragraph (1), substitute—

“(1) Subject to paragraphs (3) to (5), where a person is entitled in accordance with regulation 5 or 6 to a payment in respect of NHS travel expenses in relation to services which are provided by a provider pursuant to arrangements made under the 2006 Act with the provider by a health service body—

(a) the person may make an application for payment to the provider or the health service body which made those arrangements; and

(b) either the provider or that health service body may calculate the actual amount payable in accordance with these Regulations and make the payment.”.

(3) For paragraph (2), substitute—

“(2) Subject to paragraphs (3) to (5), where a person is entitled in accordance with regulation 5 or 6 to a payment in respect of NHS travel expenses in relation to services which are provided by a provider pursuant to arrangements made with the provider by a local authority in the exercise of the public health functions of the local authority under the 2006 Act—

(a) if the provider is an NHS trust or NHS foundation trust, the person may make an application for payment to that NHS trust or NHS foundation trust and that NHS

trust or NHS foundation trust must calculate the amount payable in accordance with these Regulations; or

- (b) if the provider is not an NHS trust or NHS foundation trust, the person may make an application for payment to the relevant CCG and the relevant CCG must calculate the amount payable in accordance with these Regulations and make the payment.”.

(4) For paragraph (3), substitute—

“(3) In a case falling within regulation 3(1)(b) (travel to a port), the application for payment may be made to, and the calculation and payment must be made by—

- (a) where the arrangements referred to in regulation 3(1)(b) were made by a health service body, the health service body which made those arrangements; or
- (b) where the arrangements referred to in regulation 3(1)(b) were made by a local authority, the relevant CCG.”.

(5) After paragraph (5), insert—

“(6) In this regulation, “relevant CCG” means the CCG in whose area the person making an application under this regulation was usually resident at the time the application was made.”.

Amendment of regulation 12 of the Travel Expenses and Remission of Charges Regulations

21.—(1) Regulation 12 of the Travel Expenses and Remission of Charges (repayments) is amended as follows.

(2) In paragraph (1)—

(a) in sub-paragraph (a)(i)—

- (i) for “, an NHS foundation trust or a Primary Care Trust”, substitute “or an NHS foundation trust”, and
- (ii) for “, NHS foundation trust or the Primary Care Trust”, substitute “or the NHS foundation trust”;

(b) after sub-paragraph (a)(i), insert—

“(ia) in respect of a NHS charge made by a provider of NHS services under regulation 6B of the Charges Regulations (supply of drugs and appliances by other providers of NHS services) for an appliance specified in Schedule 1 to the Charges Regulations (fabric supports and wigs), calculate the amount payable and notify in writing the health service body which arranged with the provider for the provision of those services of the claimant’s entitlement and the amount to be paid.”;

(c) for sub-paragraph (a)(ii), substitute—

“(ii) in a case falling within regulation 3(1)(a) where the services are provided by a provider pursuant to arrangements made under the 2006 Act with the provider by a health service body, notify in writing the health service body which made those arrangements of the claimant’s entitlement, ”; and

(d) after sub-paragraph (a)(ii), insert—

“(iii) in a case falling within regulation 3(1)(a) where the services are provided by a provider pursuant to arrangements made with the provider by a local authority in the exercise of the public health functions of the local authority under the 2006 Act—

- (aa) if the provider is an NHS trust or NHS foundation trust, notify in writing that NHS trust or NHS foundation trust, or
- (bb) if the provider is not an NHS trust or NHS foundation trust, notify in writing the relevant CCG of the claimant’s entitlement, or”;

(e) for sub-paragraph (b), substitute—

“(b) in a case falling within regulation 3(1)(b) (travel to a port) notify in writing—

(i) where the arrangements referred to in regulation 3(1)(b) were made by a health service body, the health service body which made those arrangements, or

(ii) where the arrangements referred to in regulation 3(1)(b) were made by a local authority, the relevant CCG.”.

(3) In paragraph (2), for “a Primary Care Trust” substitute “a relevant CCG”.

(4) After paragraph (3), insert—

“(4) In this regulation—

“provider of NHS services” has the same meaning as in regulation 2 of the Charges Regulations; and

“relevant CCG” means the CCG in whose area the claimant was usually resident at the time the claim was made.”.

Amendment of regulation 13 of the Travel Expenses and Remission of Charges Regulations

22. In regulation 13 of the Travel Expenses and Remission of Charges Regulations (reimbursement of payments made in respect of NHS travel expenses) omit “or (2) or a repayment under regulation 12(a)”.

Amendment of regulation 14 of the Travel Expenses and Remission of Charges Regulations

23.—(1) Regulation 14 of the Travel Expenses and Remission of Charges Regulations (payment and repayment of NHS foreign travel expenses) is amended as follows.

(2) In paragraph (1), for “A” substitute “Subject to paragraph (1A), a”.

(3) After paragraph (1), insert—

“(1A) A person who wishes to claim entitlement to payment or repayment of NHS foreign travel expenses, where the services in question are provided pursuant to arrangements made under the 2006 Act by a local authority, must apply in writing to the relevant CCG within 3 months of the expenses having been incurred or such further period as the relevant CCG may for good cause allow.”.

(4) For paragraph (2), substitute—

“(2) Paragraphs (2) to (4) of regulation 7 apply to a claim (whether for payment or repayment) made under this regulation as if the references to the Secretary of State in those paragraphs were—

(a) in the case of a claim made under paragraph (1), references to the health service body which arranged the services referred to in regulation 3(2); or

(b) in the case of a claim made under paragraph (1A), references to the relevant CCG.”

(5) After paragraph (2), insert—

“(3) In this regulation, “relevant CCG” means the CCG in whose area the claimant was usually resident at the time the claim was made.”.

Amendment of Schedule 1 to the Travel Expenses and Remission of Charges Regulations

24.—(1) Schedule 1 to the Travel Expenses and Remission of Charges Regulations (modifications of the Income Support (General) Regulations 1987) is amended as follows.

(2) In column 2 of Table B, in the modifications of Schedule 2 to the Income Support (General) Regulations 1987, in the substitute regulation 13A—

(a) at the end of paragraph (1)(b)(i), omit the “or”;

(b) at the end of paragraph (1)(b)(ii), for “.” substitute “;”; and

(c) after paragraph (1)(b)(ii), insert—

“(iii) in receipt of the enhanced rate of the daily living component of a personal independence payment prescribed in accordance with section 78(3)(b) of the Welfare Reform Act 2012; or

(iv) in receipt of an armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011.”.

Signed by authority of the Secretary of State for Health.

Earl Howe
Parliamentary Under-Secretary of State,
Department of Health

4th March 2013

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Charges for Drugs and Appliances) Regulations 2000 (“the Charges Regulations”), the National Health Service (Dental Charges) Regulations 2005 (“the Dental Charges Regulations”) and the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (“the Travel Expenses and Remission of Charges Regulations”).

Regulation 2 increases prescription and other charges payable under the Charges Regulations. Specifically, charges for the supply of drugs and appliances under the Charges Regulations are increased from £7.65 to £7.85; the charge for the supply of a pair of elastic hosiery under the Charges Regulations is increased from £15.30 to £15.70; and charges for fabric supports and wigs supplied under the Charges Regulations are increased from their previous levels.

Regulation 3 makes transitional provision in relation to charges for fabric supports and wigs supplied under the Charges Regulations.

Regulations 5 to 10, 14 and 15 make amendments to the Charges Regulations which are consequential on changes to the health service made by the Health and Social Care Act 2012, which include replacing references to Primary Care Trusts with references to the National Health Service Commissioning Board.

Regulation 11 inserts a new regulation 6B into the Charges Regulations to provide that persons or bodies who provide services under the 2006 Act pursuant to arrangements made with the NHS Commissioning Board, clinical commissioning groups, NHS trusts, NHS foundation trusts, local authorities or the Secretary of State in the exercise of their public health functions and who supply drugs or appliances to a patient for their treatment otherwise than under regulations 3 to 6A of the Charges Regulations, must make and recover prescription and other charges from the patient. There are a number of exceptions to the requirement to make and recover such charges specified in the new regulation 6B.

Regulation 12 amends regulation 7 of the Charges Regulations to set out new arrangements for whom is to recover a charge from a person who has claimed exemption from charges but which claim is not substantiated in various circumstances.

Regulation 13 amends regulation 7A of the Charges Regulations to provide that certain additional persons detained in secure accommodation for whom the NHS Commissioning Board will be responsible for commissioning health services are to be exempt from charges under the Charges Regulations.

Regulation 16 amends the Dental Charges Regulations to increase the charges for Band 1 courses of treatment from £17.50 to £18.00, Band 2 courses of treatment from £48.00 to £49.00 and Band 3 courses of treatment from £209.00 to £214.00. Band 1A charges (regulation 13A) in respect of interim care courses of treatment provided by contractors participating in the Capitation and Quality Scheme 2 pilots will also increase from £17.50 to £18.00 in line with Band 1.

Regulations 18 and 20 to 23 make amendments to the Travel Expenses and Remission of Charges Regulations which are consequential on changes to the health service made by the Health and Social Care Act 2012, which include making changes as to which bodies will pay and re-pay NHS travel expenses and NHS foreign travel expenses and re-pay certain NHS charges in various circumstances under these Regulations.

Regulation 19 amends regulation 5 of the Travel Expenses and Remission of Charges Regulations to provide for persons who are in receipt of an award of universal credit in the initial pathfinder period which runs from 29th April to 31st October 2013 (and their partners and certain dependent children and young persons) to be entitled to the full remission of NHS charges and payment of NHS travel expenses without making a claim.

Regulation 24 amends the Travel Expenses and Remission of Charges Regulations to include the additional conditions of being in receipt of the enhanced daily living component of a personal independence payment or an armed forces independence payment in calculating a person's requirements for low income scheme purposes under those Regulations.

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