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WELSH STATUTORY INSTRUMENTS

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**2006 No. 488**

**The General Dental Services and Personal Dental Services Transitional Provisions (Wales) Order 2006**

**PART 3**

**PERSONAL DENTAL SERVICES**

**CHAPTER 2**

**Agreements: Required Terms**

**Duration of agreements**

**21.**—(1) In the case of entitlement to a personal dental services agreement under article 14, the duration of the agreement to be entered into will be a period of not less than the unexpired period as at the 31 March 2006 of the pilot scheme agreement.

(2) In the case of entitlement to a personal dental services agreement under article 16 or 17, the duration of the agreement to be made on 1 April 2006 or, where a person is performing relevant service, the date the agreement is to be entered into will be for a period of not less than five years.

**Number of units of dental activity**

**22.**—(1) The number of units of dental activity to be provided by the contractor under a personal dental services agreement entered into under Chapter 1 will be determined in accordance with—

- (a) paragraphs (5) to (7) in the case of entitlement to a personal dental services agreement under article 14; or
- (b) paragraphs (2) to (8) in the case of entitlement to a personal dental services agreement under article 15.

(2) The Local Health Board will, by—

- (a) analysing the data it holds in respect of the care and treatment provided under section 35 arrangements during the year 1 October 2004 to 30 September 2005 by the person or persons with whom the agreement is to be entered into;
- (b) categorising that care and treatment in accordance with Schedules 1 to 4 of the NHS Charges Regulations, and the principles set out in regulation 4(2) to (5) of those Regulations; and
- (c) reference to the conversion criteria to units of dental activity specified in Part 1 of Schedule 2 to the GDS Contracts Regulations,

calculate how many units of dental activity is the equivalent to the care and treatment provided by that person or persons during the year 1 October 2004 to 30 September 2005.

(3) For the purposes of analysing the data in cases where a patient was accepted for care and treatment under a capitation arrangement, the Local Health Board will make an assumption that two clinical examinations have taken place during the year 1 October 2004 to 30 September 2005.

(4) The Local Health Board will reduce the number of units of dental activity calculated in accordance with paragraphs (2) and (3) by 10 per cent in order to determine how many units of dental activity the contractor will provide in each financial year.

(5) Where—

- (a) data does not exist for the period specified in paragraph (2)(a); or
- (b) data does exist, but it is appropriate to adjust the data,

the contractor and the Local Health Board will agree the number of units of dental activity to be provided.

(6) Where the contractor and the Local Health Board cannot agree the number of units of dental activity as provided for in paragraph (5), the personal dental services agreement will state this to be the case, and will specify a number of units of dental activity which is determined by the Local Health Board.

(7) In determining the number of units of dental activity to be specified under paragraph (6), the Local Health Board will have regard to any data it holds regarding the amount of care and treatment provided under section 35 arrangements or, as the case may be, the pilot scheme agreement, by the person or persons with whom the personal dental services agreement is to be entered into in the period since 1 October 2004.

(8) Nothing in paragraphs (2) to (4) will prevent the contracting parties agreeing that the contractor will provide a number of units of dental activity that is higher or lower than the number calculated in accordance with those paragraphs.

### **Number of units of orthodontic activity**

**23.—**(1) The number of units of orthodontic activity to be provided by the contractor under a personal dental services agreement entered into under Chapter 1 will be determined in accordance with—

- (a) paragraphs (3) to (5) in the case of entitlement to a personal dental services agreement under article 14;
- (b) paragraphs (2) to (5) and (7) in the case of entitlement to a personal dental services agreement under article 15; or
- (c) paragraph (6) in the case of entitlement to a personal dental services agreement under article 16 or 17.

(2) The Local Health Board will, by—

- (a) analysing the data it holds in respect of the orthodontic care and treatment provided under section 35 arrangements during the year 1 October 2004 to 30 September 2005 by the person or persons with whom the personal dental services agreement is to be entered into; and
- (b) reference to the conversion criteria to units of orthodontic activity specified in Part 2 of Schedule 2 to the GDS Contracts Regulations,

calculate how many units of orthodontic activity is the equivalent to the orthodontic care and treatment provided by that person or persons during the year 1 October 2004 to 30 September 2005.

(3) Where—

- (a) data does not exist for the period specified in paragraph (2)(a); or
- (b) data does exist, but it is appropriate to adjust the data,

the contractor and the Local Health Board will agree the number of units of orthodontic activity to be provided.

(4) Where the contractor and Local Health Board cannot agree the number of units of orthodontic activity as provided for in paragraph (3), the personal dental services agreement will state this to be the case, and will specify a number of units of orthodontic activity which is determined by the Local Health Board.

(5) In determining the number of units of orthodontic activity to be specified under paragraph (4), the Local Health Board will have regard to any data it holds regarding the amount of orthodontic care and treatment provided under section 35 arrangements or, as the case may be, the pilot scheme agreement, by the person or persons with whom the personal dental services agreement is to be entered into in the period since 1 October 2004.

(6) In the case to which paragraph (1)(c) applies, the number of units of orthodontic activity to be provided under the personal dental services agreement will be one fifty-fifth of the negotiated annual agreement value of that agreement, as determined in accordance with directions under section 28E(3A) of the 1977 Act (personal dental services: regulations)(1) (so the contractor and the Local Health Board must agree the number of units of orthodontic activity to be provided and the negotiated annual agreement value simultaneously).

(7) Nothing in paragraph (2) will prevent the contracting parties from agreeing that the contractor will provide a number of units of orthodontic activity that is higher or lower than the number calculated in accordance with that paragraph.

### **Premises, facilities and equipment**

**24.**—(1) Where a Local Health Board is not satisfied that the prospective contractor has practice premises to be used for the provision of services under the personal dental services agreement that are—

- (a) suitable premises for the delivery of those services; or
- (b) sufficient to meet the reasonable needs of the contractor’s patients,

paragraph 13 of Schedule 3 to the PDS Agreements Regulations will apply as substituted by paragraph (2).

(2) For that paragraph 13 substitute the following—

#### **“Premises, facilities and equipment**

**13.**—(1) The Local Health Board and prospective contractor will ensure that the agreement includes a plan that—

- (a) is drawn up and agreed by the Local Health Board and the prospective contractor; and
- (b) specifies—
  - (i) the steps to be taken by the contractor to bring the practice premises up to the appropriate standard,
  - (ii) any financial support that may be available from the Local Health Board, and
  - (iii) the timescale on which the steps referred to in sub-paragraph (i) will be taken.

(2) Subject to the plan referred to in sub-paragraph (1), the contractor will ensure that the practice premises used for the provision of services under the agreement are—

- (a) suitable for the delivery of those services; and
- (b) sufficient to meet the reasonable needs of the contractor’s patients.

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(1) Section 28E was inserted into the 1977 Act by the 1997 Act, section 22(1) and subsection (3A) was inserted into section 28E by the 2003 Act, section 177(8).

(3) The obligation in sub-paragraph (2) includes providing proper and sufficient waiting-room accommodation for patients.

(4) The contractor will provide, in relation to all of the services to be provided under the agreement, such other facilities and equipment as are necessary to enable it to perform those services properly.

(5) In this paragraph, “practice premises” includes a mobile surgery.”.

### **Treatment commenced prior to 1 April 2006**

**25.**—(1) Where care and treatment is commenced under section 35 arrangements or, as the case may be, a pilot scheme agreement, before 1 April 2006 and is not completed on 31 March 2006 the contractor will use its best endeavours to complete that treatment under its personal dental services agreement in accordance with paragraph 5(3) of Schedule 1 or, as the case may be, paragraph 7(2) of Schedule 3 to the PDS Agreements Regulations.

(2) Subject to paragraph (3), where treatment specified in a treatment plan provided in accordance with—

- (a) paragraph 4 of Schedule 1 to the 1992 Regulations (as amended by article 27); or
- (b) the PDS Directions (as modified by article 28),

is not completed by 1 April 2006 that plan will, after that date, be treated as though it were a treatment plan provided in accordance with paragraph 8 of Schedule 3 to the PDS Agreements Regulations and with regard to that plan, the requirements in sub-paragraph (1) of that paragraph were satisfied.

(3) Where treatment specified in a treatment plan in respect of orthodontic care and treatment provided in accordance with—

- (a) paragraph 4 of Schedule 1 to the 1992 Regulations (as amended by article 27); or
- (b) the PDS Directions as modified by article 28,

is not completed by 1 April 2006 that plan will, after that date, be treated as though it were a treatment plan provided in accordance with paragraph 6 of Schedule 1 to the PDS Agreements Regulations and with regard to that plan, the requirements in sub-paragraph (1) of that paragraph were satisfied.

(4) Where care and treatment is commenced prior to 1 April 2006 and continues or is completed on or after that date, all of that care and treatment provided will be treated as though it were a course of treatment or, as the case may be, an orthodontic course of care and treatment provided in accordance with the PDS Agreements Regulations.