
STATUTORY INSTRUMENTS

2013 No. 261

The National Health Service and Public Health (Functions and Miscellaneous Provisions) Regulations 2013

PART 2

Exercise of EU functions by the Board

Interpretation of Part 2

2.—(1) In this Part—

- (a) “Article 20” and “Article 27(3)” respectively mean Article 20 and Article 27(3) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 (authorisation for treatment in another Member State)(1);
- (b) a CCG has responsibility for a person if in relation to the service that is the subject of an application as mentioned in regulation 4, it is responsible for that person under or by virtue of section 3 or 3A of the 2006 Act (duties of clinical commissioning groups as to commissioning certain health services and power of clinical commissioning groups to commission certain health services)(2).

(2) “working day” means any day except a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England under section 1 of the Banking and Financial Dealings Act 1971(3) and any application or information received on a day that is not a working day is to be treated as having been received on the next working day.

Exercise of functions

3. The following functions of the Secretary of State are to be exercised by the Board—

- (a) functions under sections 6A and 6B of the 2006 Act (prior authorisation of and reimbursement of costs of services provided in another EEA state);
- (b) functions exercisable for the purposes of Article 20 or Article 27(3).

Procedure for applications

4.—(1) The Board must establish and publish procedures for the determination of applications—

- (a) for reimbursement of costs of services under section 6A of the 2006 Act;
- (b) for prior authorisation of treatment under section 6B of the 2006 Act; and
- (c) for prior authorisation of treatment pursuant to Article 20 or Article 27(3).

(2) The procedures for the determination of such applications must include provision for a review of the determination by the Board.

(1) OJ L166, 30.4.2004, p. 1.

(2) Section 3 of the 2006 Act is amended by section 13 of the 2012 Act. Section 3A is inserted by section 14 of the 2012 Act.

(3) 1971 c. 80.

- (3) The Board must publish—
- (a) information about the procedures the Board has in place for reimbursement under section 6A of the 2006 Act and prior authorisation under section 6B of the 2006 Act or pursuant to Article 20 or Article 27(3);
 - (b) a copy of the form in which an application must be made; and
 - (c) a description of the information to be supplied in support of an application.

Time for determination of an application

5.—(1) Subject to paragraph (2), the Board must determine an application before the end of the period of 20 working days beginning on the day the Board receives the application.

(2) If the application does not contain sufficient information to enable the Board to determine the application, the Board must, before the end of the period of 10 working days beginning with the day on which it receives the application, inform the applicant of the information it needs to determine the application.

(3) Where the additional information referred to in paragraph (2) is supplied by the applicant, the Board must determine the application before the end of the period of 10 working days beginning with the day it receives the information requested.

Form and content of determination

6.—(1) The Board must inform the applicant in writing of its determination of the application.

(2) Paragraph (3) applies if the determination is not—

- (a) to reimburse the full amount claimed by the applicant under section 6A of the 2006 Act;
- (b) to give prior authorisation for treatment under section 6B of the 2006 Act; or
- (c) to give prior authorisation for treatment pursuant to Article 20 or Article 27(3).

(3) The determination must—

- (a) set out the information considered by the Board in reaching its determination;
- (b) the reasons for its determination; and
- (c) the steps an applicant must take if the applicant disagrees with the decision and wishes to request a review of the determination by the Board.

CCGs

7.—(1) This regulation applies if a patient for whom a CCG has responsibility makes an application to the Board as mentioned in regulation 4.

(2) The CCG must, not later than the end of the period of 7 working days beginning on the day it receives a request for information from the Board—

- (a) provide the Board with the information requested, or
- (b) tell the Board that it does not have the information requested.

(3) Paragraph (4) applies if—

- (a) the Board reimburses the patient under section 6A of the 2006 Act in respect of qualifying EEA expenditure within the meaning of that section, and
- (b) the CCG would have been responsible for meeting the cost if the same or equivalent service had been made available to the patient under the 2006 Act.

(4) The CCG must reimburse the Board for the amount reimbursed by the Board to the patient.

Applications made before 1st April 2013

- 8.—(1) This regulation applies to an application under section 6A or 6B of the Act which is—
- (a) made to a Primary Care Trust before 1st April 2013, and
 - (b) not determined before that date.
- (2) The application must be treated as if it is an application made to the Board on or after 1st April 2013.