STATUTORY INSTRUMENTS

2018 No. 1114

The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018

PART 4

Amendments to the GMS Contracts Regulations

Amendment of regulation 3 of the GMS Contracts Regulations

16.—(1) Regulation 3 of the GMS Contracts Regulations(**1**) (interpretation) is amended as follows.

(2) In paragraph (b)(ii) of the definition of "prescription form", for "nominated dispensing contractor" substitute "nominated dispenser or via an information hub".

(3) In paragraph (c)(ii) of the definition of "repeatable prescription", for "nominated dispensing contractor" substitute "nominated dispenser or via an information hub".

(4) At the appropriate place in the alphabetical order insert—

""authorised person", in relation to a patient, is a person who is entitled to make an application for pharmaceutical services on behalf of the patient by virtue of regulation 116(a) to (c) of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (authorised persons to apply for services);".

(5) At the appropriate place in the alphabetical order insert—

""contractor's EPS phase 4 date" means the date, encoded within the Electronic Prescription Service software, which is the date that a contractor has agreed is to be the date on and after which the contractor's prescribers are to use the Electronic Prescription Service for all eligible prescriptions;".

(6) At the appropriate place in the alphabetical order insert—

""EPS token" means a form (which may be an electronic form), approved by the Secretary of State, which—

(a) is issued by a prescriber at the same time as an electronic prescription is created; and

(b) has a barcode that enables the prescription to be dispensed by a provider of pharmaceutical services that is able to use the Electronic Prescription Service for the purposes of dispensing prescriptions, in circumstances where the provider is not dispensing the prescription as a nominated dispenser;".

Amendment of regulation 56 of the GMS Contracts Regulations

17.—(1) Regulation 56 of the GMS Contracts Regulations (orders for drugs, medicines or appliances) is amended as follows.

(2) In paragraph (1), for "paragraphs (2) and (3)" substitute "paragraphs (1A), (2) and (3)".

(**1**) Regulation 3 has been amended by S.I. 2016/696 and 1077 and 2018/844.

(3) After paragraph (1), insert the following paragraphs—

"(1A) If, on a particular occasion when a drug, medicine or appliance is needed as mentioned in paragraph (1)—

(a) the prescriber is able, without delay, to order the drug, medicine or appliance by means of an electronic prescription;

(b) the Electronic Prescription Service software that the prescriber would use for that purpose provides for the creation and transmission of electronic prescriptions without the need for a nominated dispenser; and

(c) none of the reasons for issuing a non-electronic prescription form or a non-electronic repeatable prescription given in paragraph (1B) apply,

the prescriber must create and transmit an electronic prescription for that drug, medicine or appliance.

(1B) The reasons given in this paragraph are—

(a) although the prescriber is able to use the Electronic Prescription Service, the prescriber is not satisfied that—

(i) the access that the prescriber has to the Electronic Prescription Service is reliable, or

(ii) the Electronic Prescription Service is functioning reliably;

(b) the patient, or where appropriate the patient's authorised person, informs the prescriber that the patient wants the option of having the prescription dispensed elsewhere than in England;

(c) the patient, or where appropriate the patient's authorised person, insists on the patient being issued with a non-electronic prescription form or a non-electronic repeatable prescription for a particular prescription and in the professional judgment of the prescriber the welfare of the patient is likely to be in jeopardy unless a non-electronic prescription form or a non-electronic repeatable prescription is issued;

(d) the prescription is to be issued before the contractor's EPS phase 4 date or the contractor has no such date.".

Amendment of regulation 57 of the GMS Contracts Regulations

18.—(1) Regulation 57 of the GMS Contracts Regulations (electronic prescriptions) is amended as follows.

(2) In paragraph (1), omit sub-paragraphs (a) and (b).

(3) After paragraph (1), insert the following paragraphs—

"(1A) If a prescriber orders a drug, medicine or appliance by means of an electronic prescription, the prescriber must issue the patient with—

(a) subject to paragraph (1C), an EPS token; and

(b) if the patient, or where appropriate an authorised person, so requests, a written record of the prescription that has been created.

(1B) On and after the contractor's EPS phase 4 date, if the order is eligible for Electronic Prescription Service use, the prescriber must ascertain if the patient, or where appropriate the patient's authorised person, wants to have the electronic prescription dispensed by a nominated dispenser.

(1C) The prescriber must not issue the patient with an EPS token if the patient, or where appropriate the patient's authorised person, wants to have the electronic prescription dispensed by a nominated dispenser.".

(4) Omit paragraphs (3) and (4).

Amendment of regulation 58 of the GMS Contracts Regulations

19.—(1) Regulation 58 of the GMS Contracts Regulations (nomination of dispensers for the purposes of electronic prescriptions) is amended as follows.

(2) In paragraph (1)—

(a) in the opening words, after "its patients must", insert ", if a patient, or where appropriate the patient's authorised person, so requests,"; and

(b) in sub-paragraph (a), after "chosen by the patient", insert ", or where appropriate the patient's authorised person".

(3) Omit paragraph (3).

(4) In paragraph (4)—

(a) in sub-paragraph (a), after "a patient" insert "or a patient's authorised person"; and

(b) in sub-paragraph (b)—

(i) after "by a patient", insert "or a patient's authorised person",

(ii) after "whom the patient", insert "or the patient's authorised person", and

(iii) after "provide the patient", insert "or, as the case may be, the patient's authorised person".