
STATUTORY RULES OF NORTHERN IRELAND

2013 No. 59

**The Health and Personal Social Services
(General Medical Services Contracts)
(Amendment) Regulations (Northern Ireland) 2013**

Amendment of Schedule 5 to the principal Regulations

9.—(1) Schedule 5 (Other contractual terms) shall be amended as provided in the following paragraphs.

(2) After paragraph 1A (Telephone services), insert

“Cost of relevant calls

1B.—(1) The contractor must not enter into, renew or extend a contract or other arrangement for telephone services unless it is satisfied that, having regard to the arrangement as a whole, persons will not pay more to make relevant calls to the practice than they would to make equivalent calls to a geographical number.

(2) Where a contractor is party to an existing contract or other arrangement for telephone services under which persons making relevant calls to the practice call a number which is not a geographical number, the contractor must comply with sub-paragraph (3).

(3) The contractor must—

- (a) before 1st April 2014, review the arrangement and consider whether, having regard to the arrangement as a whole, persons pay more to make relevant calls than they would to make equivalent calls to a geographical number; and
- (b) if the contractor so considers, take all reasonable steps, including in particular considering the matters specified in sub-paragraph (4), to ensure that, having regard to the arrangement as a whole, persons will not pay more to make relevant calls than they would to make equivalent calls to a geographical number.

(4) The matters referred to in sub-paragraph (3)(b) are—

- (a) varying the terms of the contract or arrangement;
- (b) renegotiating the terms of the contract or arrangement;
- (c) terminating the contract or arrangement.

(5) If, despite taking all reasonable steps referred to in sub-paragraph (3)(b), it has not been possible to ensure that, having regard to the arrangement as a whole, persons will not pay more to relevant calls to the practice than they would to make equivalent calls to a geographical number, the contractor must consider introducing a system under which if a caller asks to be called back, the contractor will do so at the contractor’s expense.

(6) In this paragraph—

“existing contract or other arrangement” means a contract or arrangement that was entered into prior to 1st April 2013 and which remains in force on 1st April 2013;

“geographical number” means a number which has a geographical area code as its prefix; and

- (i) made by patients to the practice for any reason related to services provided under the contract, and
- (ii) made by persons, other than patients, to the practice in relation to services provided as part of the health service.”.

(3) In paragraph 11 (Standards for out of hours services)—

- (a) omit “From 1st January 2005,”.

(4) Paragraph 11A shall be amended as follows—

(a) In the definition of “necessary drugs, medicines and appliances”—

- (i) after “which” where it appears for the second time on the second line, insert “in”;
- (ii) after “obtain” on the fourth line, insert “them”.

(b) In the definition of “out of hours performer”, after “health” on the second line, insert “care”.

(c) In the definition of “supply form”, for “Agency”, substitute “RBSO”.

(5) In paragraph 17 (Refusal of applications for inclusion in the list of patients or for acceptance as a temporary resident), for paragraph 17(2), substitute—

“(2) The reasonable grounds referred to in paragraph (1) may, in the case of an application made under paragraph 15, include the grounds that the applicant—

- (a) does not live in the contractor’s practice area; or
- (b) lives in the outer boundary area (the area referred to in paragraph 18(1A)).”.

(6) In paragraph 20 (Removal from the list at the request of the contractor), in sub-paragraph (1), second line for “applicant’s” substitute “patient’s” and in the fourth line for “applicant” substitute “patient”.

(7) Omit paragraph 29 (Closure of lists of patients) and insert after paragraph 28 (Termination of responsibility for patients not registered with the contractor)—

“Application for closure of lists of patients

29A.—(1) A contractor which wishes to close its list of patients must send a written application (“the Application”) to close its list to the Board and the Application must include the following details—

- (a) the options which the contractor has considered, rejected or implemented in an attempt to relieve the difficulties which the contractor has encountered in respect of its open list and, if any of the options were implemented, the level of success in reducing or extinguishing such difficulties;
- (b) any discussions between the contractor and its patients and a summary of those discussions including whether in the opinion of those patients the list of patients should or should not be closed;
- (c) any discussions between the contractor and other contractors in the practice area and a summary of the opinion of the other contractors as to whether the list of patients should or should not be closed;
- (d) the period of time during which the contractor wishes its list of patients to be closed and that period must not be less than 3 months and not more than 12 months;

- (e) any reasonable support from the Board which the contractor considers would enable its list of patients to remain open or would enable the period of proposed closure to be minimised;
 - (f) any plans the contractor may have to alleviate the difficulties mentioned in that Application during the period the list of patients may be closed in order for that list to reopen at the end of the proposed closure period without the existence of those difficulties; and
 - (g) any other information which the contractor considers ought to be drawn to the attention of the Board.
- (2) The Board must acknowledge receipt of the Application within a period of 7 days starting on and including the date the Application was received by the Board.
- (3) The Board must consider the Application and may request such other information from the contractor which it requires to enable it to consider the Application.
- (4) The Board must enter into discussions with the contractor concerning—
- (a) the support which the Board may give to the contractor; or
 - (b) changes which the Board or contractor may make,
- to enable the contractor to keep its list of patients open.
- (5) The Board and the contractor must, throughout the discussions referred to in subparagraph (4), use its reasonable endeavours to achieve the aim of keeping the contractor's list of patients open.
- (6) The Board or the contractor may, at any stage during the discussions, invite the Local Medical Committee for the area to attend any meetings arranged between the Board and contractor to discuss the Application.
- (7) The Board may consult such persons as it appears to the Board may be affected by the closure of the contractor's list of patients, and if it does so, the Board must provide to the contractor a summary of the views expressed by those consulted in respect of the Application.
- (8) The Board must enable the contractor to consider and comment on all the information before the Board makes a decision in respect of the Application.
- (9) A contractor may withdraw its Application at any time before the Board makes a decision in respect of that Application.
- (10) Within a period of 21 days starting on and including the date of receipt of the Application (or within such longer period as the parties may agree), the Board must make a decision—
- (a) to approve the Application and determine the date the closure is to take effect and the date the list of patients is to reopen; or
 - (b) to reject the Application.
- (11) The Board must notify the contractor of its decision to approve the Application in accordance with paragraph 29B, or in the case where the Application is rejected, in accordance with paragraph 29C.
- (12) A contractor must not submit more than one application to close its list of patients in any period of 12 months starting on and including the date on which the Board makes its decision on the Application unless—
- (a) paragraph 29C applies; or
 - (b) there has been a change in the circumstances of the contractor which affects its ability to deliver services under the contract.

Approval of an application to close a list of patients

- 29B.**—(1) Where the Board approves an application to close a list of patients, it must—
- (a) notify the contractor of its decision in writing as soon as possible and the notification (“the closure notice”) must include the details referred to in sub-paragraph (2); and
 - (b) at the same time as it notifies the contractor, send a copy of the closure notice to the Local Medical Committee for the area and to any person it consulted in accordance with paragraph 29A(7).
- (2) The closure notice must include—
- (a) the period of time for which the contractor’s list of patients will be closed which must be—
 - (i) the period specified in the application to close the list of patients; or
 - (ii) in the case where the Board and contractor have agreed in writing a different period, that different period, and in either case, the period must be not less than 3 months and not more than 12 months;
 - (b) the date from which the closure of the list of patients is to take effect; and
 - (c) the date from which the list of patients is to re-open.
- (3) Subject to paragraph 29E, a contractor must close its list of patients with effect from the date the closure of the list of patients is to take effect and the list of patients must remain closed for the duration of the closure period as specified in the closure notice.

Rejection of an application to close a list of patients

- 29C.**—(1) Where a Board rejects an application to close a list of patients it must—
- (a) notify the contractor of its decision in writing as soon as possible and the notification must include the reasons for the rejection of the application; and
 - (b) at the same time as it notifies the contractor, send a copy of the notification to the Local Medical Committee for the area and to any person it consulted in accordance with paragraph 29A(7).
- (2) Subject to sub-paragraph (3), if a Board makes a decision to reject a contractor’s application to close its list of patients, the contractor must not make a further application until—
- (a) the end of the period of 3 months, starting on and including the date of the decision of the Board; or
 - (b) the end of the period of 3 months, starting on and including the date of the final determination in respect of a dispute arising from the decision to reject the application made pursuant to the dispute resolution procedure (or any court proceedings),
- whichever is the later.
- (3) A contractor may make a further application to close its list of patients where there has been a change in the circumstances of the contractor which affects its ability to deliver services under the contract.

Application for an extension to a closure period

- 29D.**—(1) A contractor may apply to extend a closure period by sending a written application to extend the closure period no later than 8 weeks before the date that period is due to expire.
- (2) The application to extend the closure period must include—

- (a) details of the options the contractor has considered, rejected or implemented in an attempt to relieve the difficulties which have been encountered during the closure period or which may be encountered when the closure period expires;
- (b) the period of time during which the contractor wishes its list of patients to remain closed, which extended period of desired closure must not be more than 12 months;
- (c) details of any reasonable support from the Board which the contractor considers would enable its list of patients to re-open or would enable the proposed extension of the closure period to be minimised;
- (d) details of any plans the contractor may have to alleviate the difficulties mentioned in the application to extend the closure period in order for the list of patients to re-open at the end of the proposed extension of the closure period without the existence of those difficulties; and
- (e) any other information which the contractor considers ought to be drawn to the attention of the Board.

(3) The Board must acknowledge receipt of the application for an extension to the closure period within a period of 7 days starting on and including the date the application was received by the Board.

(4) The Board must consider the application for an extension to the closure period and may request such other information from the contractor which it requires to enable it to consider that application.

(5) The Board may enter into discussions with the contractor concerning—

- (a) the support which the Board may give to the contractor; or
- (b) changes which the Board or contractor may make,

to enable the contractor to re-open its list of patients.

(6) Within a period of 14 days starting on and including the date of receipt of the application to extend the closure period (or within such longer period as the parties may agree), the Board must make a decision.

(7) The Board must notify the contractor of its decision to approve or reject the application to extend the closure period as soon as possible after making its decision.

(8) Where the Board approves the application to extend the closure period, it must—

- (a) notify the contractor of its decision in writing and the notification (“the extended closure notice”) shall include the details referred to in sub-paragraph (9); and
- (b) at the same time as it notifies the contractor, send a copy of the extended closure notice to the Local Medical Committee for the area and to any person it consulted in accordance with paragraph 29A(7).

(9) The extended closure notice must include—

- (a) the period of time for which the contractor’s list of patients will remain closed which must be—
 - (i) the period specified in the application to extend the closure period; or
 - (ii) in the case where the Board and contractor have agreed in writing a different period to the period specified in application to extend the closure period, the period which is agreed,

and in either case, the period (“the extended closure period”), must be not less than 3 months and not more than 12 months;

- (b) the date from which the extended closure period is to take effect; and

- (c) the date on which the list of patients is to re-open.
- (10) Where the Board rejects an application to extend the closure period it must—
 - (a) notify the contractor of its decision in writing and the notification must include the reasons for the rejection of the application; and
 - (b) at the same time as it notifies the contractor, send a copy of the notification to the Local Medical Committee.
- (11) Where an application for an extension of the closure period is made in accordance with sub-paragraphs (1) and (2), the list of patients will remain closed pending—
 - (a) the determination by the Board of the application for an extension of the closure period; or
 - (b) the contractor ceasing to pursue any dispute arising from the application for an extension of the closure period pursuant to the dispute resolution procedure (or any court proceedings),

whichever is the later.

Re-opening of list of patients

29E. The contractor may re-open its list of patients before the expiry of the closure period if the Board and contractor agree that the contractor should re-open its list of patients”.”

- (8) Omit paragraph 30 (Approval of closure notice by the Board) and paragraph 31 (Rejection of closure notice by the Board).
- (9) For paragraph 35 substitute—

“Assignments to closed lists: determinations of the assessment panel

35.—(1) This paragraph applies where most or all of the providers of essential services whose practice premises are within a Local Medical Committee area have closed their lists of patients.

(2) If the Board wishes to assign new patients to contractors which have closed their lists of patients, it must prepare a proposal to be considered by the assessment panel which must include details of those contractors to which the Board wishes to assign patients.

(3) The Board must ensure that the assessment panel is appointed to consider and determine its proposal made under sub-paragraph (2), and the composition of the assessment panel shall be as described in sub-paragraph (3A).

- (3A) The members of the assessment panel must be—
 - (a) The Chief Executive of the Board;
 - (b) a person representative of patients in an area other than that of the contractor which is party to the contract;
 - (c) a person representative of a Local Medical Committee which does not represent practitioners in the Local Medical Committee area of the contractor which is a party to the contract”.”

- (10) In paragraph 38 (Prescribing)—
 - (a) after “prescription form”, insert “or repeatable prescription”;
 - (b) for “39, 40 and 41”, substitute “39 to 44”.
- (11) In paragraph 48(2)(d) (Qualification of performers), for “the Postgraduate Medical Education and Training Board” substitute “the General Medical Council”.

(12) In paragraph 68 (Patient records) in sub-paragraph (4)(a), for the words from “General Medical” to the end substitute “General Practice Systems of Choice Level 0 and the Northern Ireland Minimum Systems Specification Version 2.”

(13) After paragraph 71 (Practice leaflet), insert—

“Provision of information on website

71A. In the case where a contractor has a website, the contractor must publish on that website details of the practice area, including the area known as the outer boundary area (within the meaning given in regulation 18(1A)), by reference to a sketch diagram, plan or postcode.”

(14) For paragraph 74 (Reports to a medical officer), substitute—

“Provision of information to a medical officer etc.

74.—(1) The contractor must, if satisfied that the patient consents—

(a) supply in writing to any person specified in sub-paragraph (3), within such reasonable period as that person may specify, such clinical information as any of the persons mentioned in sub-paragraph (3)(a) to (d) considers relevant about a patient to whom the contractor or a person acting on behalf of the contractor has issued or has refused to issue a medical certificate; and

(b) answer any inquiries by any person mentioned in sub-paragraph (3) about—

(i) a prescription form or medical certificate issued or created by, or on behalf of, the contractor, or

(ii) any statement which the contractor or a person acting on behalf of the contractor has made in a report.

(2) For the purposes of being satisfied that a patient consents, a contractor may rely on an assurance in writing from any person mentioned in sub-paragraph (3) that the consent of the patient has been obtained, unless the contractor has reason to believe that the patient does not consent.

(3) For the purposes of sub-paragraphs (1) and (2), the persons are—

(a) a medical officer;

(b) a nursing officer;

(c) an occupational therapist;

(d) a physiotherapist; or

(e) an officer of the Department for Social Development who is acting on behalf of, and at the direction of, any person specified in paragraphs (a) to (d).

(4) In this paragraph—

“medical officer” means a medical practitioner who is—

(i) employed or engaged by the Department for Social Development, or

(ii) provided by an organisation under a contract entered into with the Department for Social Development;

“nursing officer” means a health care professional who is registered on the Nursing and Midwifery Register and—

(i) employed or engaged by the Department for Social Development, or

(ii) provided by an organisation under a contract entered into with the Department for Social Development;

“occupational therapist” means a health care professional who is registered in the part of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001(1) relating to occupational therapists and—

- (i) employed or engaged by the Department for Social Development, or
- (ii) provided by an organisation under a contract entered into with the Department of Social Development; and

“physiotherapist” means a health care professional who is registered in the part of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001 relating to physiotherapists and—

- (i) employed by the Department for Social Development, or
- (ii) provided by an organisation under a contract entered into with the Department for Social Development”.

(15) In paragraph 105 (Other grounds for termination by the Board)—

- (a) in sub-paragraph (2)(j)(ii), after “Insolvency Act 1986” insert “or Schedule 2A to the Insolvency (Northern Ireland) Order 1989”;
- (b) in sub-paragraph (2)(m)(ii), after “(powers of the Court of Session to deal with the management of charities)”, insert “or under section 34 of the Charities and Trustee Investment (Scotland) Act 2005 (powers of Court of Session)”.

(16) In paragraph 107 (Termination by the Board: remedial notices and breach notices), in sub-paragraphs (1) and (5), for “specified in paragraphs 103 to 106” substitute “specified in paragraphs 103 to 106A”.

(17) In paragraph 112(1) (Consultation with the Local Medical Committee), for sub-paragraphs (a) and (b) substitute—

- “(a) terminating the contract pursuant to paragraph 104, 105, 106, 107(4) or (6) or 108;
- (b) which of the alternative sanctions in writing available under the provisions of paragraph 106A it will serve; or
- (c) imposing a contract sanction,”;

(18) In paragraph 113(1) (Clinical governance), after “effective system of clinical governance” insert “which shall include appropriate standard operating procedures in relation to the management and use of controlled drugs”;

(19) After paragraph 113, insert the following—

“**113A.** The contractor shall co-operate with the Board in the discharge of any obligations of the Board or its accountable officer under the Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009(2).”.

(1) S.I. 2002/254. A relevant amendment was made by S.I. 2009/1182
(2) S.R. 2009/225.