

POLICY NOTE

THE NATIONAL HEALTH SERVICE (GENERAL DENTAL SERVICES) (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2023

SSI 2023/247

The above instrument was made in exercise of the powers conferred by sections 17G, 25(1), 28A(4) and 105(7) of the National Health Service (Scotland) Act 1978. The instrument is subject to negative procedure.

Summary Box

The purpose of this instrument is two-fold (a) to make specific changes to existing regulations (principally The National Health Service (General Dental Services) (Scotland) Regulations 2010 – “the 2010 Regulations”) to support payment reform and (b) miscellaneous changes that the Government intended at the next opportunity of amendment of those existing regulations.

Policy Objectives

Background

The Government announced on 27 July 2023 payment reform in NHS dentistry with an implementation date of 1 November 2023 (full details on payment reform may be found at: PCA(2023)4 – Fees for Determination I | Scottish Dental.)

Developed as part of the Oral Health Improvement Plan in 2018 the main purpose of payment reform is to improve access to NHS dental services with a new suite of fees incentivising a full range of NHS care and treatment. Payment reform affirms the Government’s commitment to sustaining and improving patient access to NHS dental services, in line with the First Minister’s Policy Prospectus.

Payment reform will comprise a new, modernised system that will provide NHS dental teams with greater clinical discretion, improve preventive care, deliver better periodontal treatment and provide the full range of treatments necessary in modern dentistry, whilst supporting patient understanding of the NHS dental treatment offer.

Purpose of this instrument

a. To support payment reform the main changes are:

Under the 2010 Regulations at present, children are registered under a capitation arrangement, and adults under a continuing care arrangement. We are replacing the capitation arrangement and continuing care arrangement with a single capitation arrangement for all patients, regardless of age. Payment reform will no longer distinguish between adult

and child dental services, all care and treatment items will be available to all patients where appropriate.

Under the 2010 Regulations at present, patients who are not registered for NHS dental care receive a reduced list of treatment items (occasional treatments). Payment reform will no longer retain occasional treatment items meaning that all patients, regardless of registration status, will be able to receive the same level of care and treatment.

b. Key miscellaneous changes are:

The Government has taken the opportunity to update the precise requirements under the new capitation arrangement for dentists. Existing arrangements refer to a requirement to ‘secure and maintain’ the oral health of the patient. This has been updated to instead refer to the management of the oral health of the patient. The intention behind this change is to reflect the requirement for patients to ensure they care for their oral health such that the management of oral health is a more realistic aim on the part of their dentist.

At present the 2010 Regulations do not allow for NHS and private treatment to be provided on the same tooth. The intention is to remove this provision ensuring that where patients choose to have a private procedure that is not available on the NHS, they can continue to receive any treatment pertaining to other treatments on that tooth that are available on the NHS.

As well as amendment of the 2010 Regulations, other existing legislation being amended (principally as a consequence of the main changes described above) is:

- The National Health Service (Choice of Dental Practitioner) (Scotland) Regulations 1998;
- The National Health Service (Dental Charges) (Scotland) Regulations 2003; and
- The National Health Service (Discipline Committees) (Scotland) Regulations 2006.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government’s policy to maintain alignment with the EU.

Consultation

British Dental Association (BDA) Scotland have been consulted during the preparation of the policy that supports this instrument. Scottish Ministers regard BDA Scotland as the representative body for dentists in Scotland.

Impact Assessments

An Equality Impact Assessment has been completed for this instrument and is attached. There are no negative equality impact issues and possible minimal positive equality impacts.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The impact of this policy on business will have no adverse effects.

Scottish Government
Primary Care Directorate

September 2023