
STATUTORY INSTRUMENTS

1996 No. 706

**The National Health Service (Fund-
holding Practices) Regulations 1996**

PART VI

ALLOTTED SUM—AUTHORISED PURPOSES

Payment for drugs, medicines and listed appliances

19.—(1) The members of a fund-holding practice shall, in respect of each month, pay to the Health Authority out of the allotted sum an amount determined in accordance with the following paragraphs of this regulation as the basic cost of the drugs, medicines and listed appliances supplied pursuant to orders given by or on behalf of members of the practice.

(2) The amount referred to in paragraph (1) shall, subject to paragraph (6), be—

(a) the net ingredient cost of the drugs, medicines or listed appliances calculated in accordance with paragraphs (3) and (4); minus

(b) an amount representing a percentage of the price of the drugs, medicines or listed appliances, which percentage—

(i) the Prescription Pricing Authority, or in Wales the Welsh Health Common Services Authority, in its calculation of the remuneration payable to pharmacists in accordance with Part II of the Drug Tariff, has determined is the total discount value applicable to items dispensed in that month divided by the total net ingredient cost of those items, multiplied by 100, and

(ii) has been published by the Secretary of State; plus

(c) except in the case of listed appliances supplied with, or in connection with, the supply of oxygen or drugs and medicines supplied in bulk, an amount specified in the Drug Tariff representing the cost of the container or packaging in which the drug, medicine or listed appliance is supplied.

(3) The net ingredient cost referred to in paragraph (2)(a) of a drug or medicine shall be—

(a) where the name of the drug or medicine is included in a list in the Drug Tariff which specifies a price for a specified quantity of that drug or medicine, the price so specified;

(b) where the name of the drug or medicine is not so listed, the manufacturer's list price.

(4) The net ingredient cost of a listed appliance referred to in paragraph (2)(a) shall be the price of the appliance specified in the Drug Tariff.

(5) Where an amount calculated under paragraph 2(a), (b) or (c) is in any month not an exact number of pounds, any amount of 50 pence or more shall be rounded up to, and any amount less than 50 pence shall be rounded down to, the nearest whole pound.

(6) In this regulation—

“the Drug Tariff” means the statement published under regulation 18 of the National Health Services (Pharmaceutical Services) Regulations 1992(1);

“listed appliance” means an appliance which is included in a list for the time being approved by the Secretary of State for the purposes of section 41 of the 1977 Act;

“manufacturer’s list price” means the price which the manufacturer of a drug or medicine or his wholesaler or supplier publishes as being the price of that drug or medicine;

“medicine” includes such chemical reagents as are included in a list for the time being approved by the Secretary of State for the purposes of section 41 of the 1977 Act;

“Prescription Pricing Authority” means the special health authority now constituted by the Prescription Pricing Authority Constitution Order 1990 pursuant to section 11 of the 1977 Act(2);

“Welsh Health Common Services Authority” means the special health authority now constituted by the Welsh Health Common Services Authority Constitution Order 1990(3).

- (7) For the purposes of this regulation, a drug or medicine is supplied in bulk only when—
- (a) it is ordered by a member of a fund-holding practice for two or more of his patients;
 - (b) those patients reside in a school or institution in which at least 20 persons reside;
 - (c) the name of that school or institution is written on the order; and
 - (d) at least 10 of the persons residing in the school or institution are patients of the member of the fund-holding practice who ordered the drug or medicine.

Purchase of goods and services

20.—(1) Subject to paragraphs (3) to (11), the members of a fund-holding practice shall apply the allotted sum so as to secure the purchase of such of the goods and services, other than general medical services, referred to in paragraph (2) as are necessary for the proper treatment of individuals on the lists of patients of the members of the practice and are appropriate in all the circumstances having regard, in particular, to the needs of all those individuals.

(2) The goods and services referred to in paragraph (1) are the goods and services specified, in the case of standard fund-holding practices in Part I, and in the case of community fund-hold practices in Part II, of a list approved from time to time by the Secretary of State for the purposes of this regulation.

(3) Where the list mentioned in paragraph (2) includes services in connection with the termination of pregnancy but the members of a fund-holding practice do not wish to purchase such services in any financial year, they may give notice to that effect to the Health Authority by 1st July in the preceding year.

(4) The cost of any such services in connection with the termination of pregnancy which are provided to individuals on the lists of patients of members of the practice in the financial year in question shall be met by the Health Authority whose primary functions include the provision of goods and services to those individuals—

- (a) where the members of the practice have given notice as mentioned in paragraph (3); or

(1) S.I.1992/662 amended by S.I. 1994/2402, 1993/2451 and 1995/644.

(2) S.I. 1990/1718. The Prescription Pricing Authority was originally established by the Prescription Pricing Authority (Establishment and Constitution) Order 1974 (S.I. 1974/9) which was revoked and replaced by S.I. 1978/331 (itself revoked and replaced by S.I. 1990/1718).

(3) S.I. 1990/2647. The Welsh Health Common Services Authority was originally established as the Welsh Health Technical Services Organisation under the Welsh Health Technical Services Organisation (Establishment and Constitution) Order 1973 (S.I. 1973/1624). It was re-established as the Welsh Health Common Services Authority under S.I. 1985/996 (itself revoked and replaced by S.I. 1990/2648).

- (b) where a patient of a member of a practice either refers herself for such services to a Health Authority or an NHS Trust or is referred by a doctor who is not a member of the fund-holding practice.
- (5) Where the list mentioned in paragraph (2) includes district nursing or health visiting services or both, the members of a fund-holding practice shall enter into at least one NHS contract, to which the Health Authority has consented in writing in accordance with paragraph (6), for the purchase of such of those services as are included in that list.
- (6) The Health Authority shall consent to such an NHS contract as is referred to in paragraph (5) if it is satisfied that—
- (a) the proposed provider is either a Health Authority or an NHS Trust;
 - (b) the proposed provider either has itself provided, or has assumed responsibility for the relevant establishments or facilities of a body which provided, such district nursing or health visiting services or both, whether under an NHS contract or not and whether to the patients of the members of the fund-holding practice or not, for the whole of the calendar year ending on the date from which the proposed services are to be purchased; and
 - (c) the volume of district nursing and health visiting services which the members of the practice propose to purchase is at least that which the Secretary of State, in his determination of the allotted sum payable to the members of the fund-holding practice, determined was expected to be purchased for the benefit of individuals on the lists of patients of members of the fund-holding practice.
- (7) The members of a fund-holding practice shall not purchase any of the goods or services specified in a list approved under paragraph (2) for an individual who is on the lists of patients of a member of the practice from any provider with which any member of the practice is connected unless—
- (a) the Health Authority has consented in writing to the purchase of those goods or services from that provider; or
 - (b) it is impracticable, having regard to the condition of the patient, to obtain the consent and no alternative provider is available; or
 - (c) the provider is a health service body other than a fund-holding practice.
- (8) The Health Authority shall not consent to the purchase of any goods or services from a provider with which a member of the practice is connected unless it is satisfied either that no member of the practice will receive any payment from the allotted sum, whether directly or indirectly, more than half of which is attributable to treatment given to individuals who are on the lists of patients of members of the practice, or that such payments will be made in accordance with regulation 24.
- (9) Where the members of a practice have obtained the consent of the Health Authority under paragraph (6) or (7), the members of the practice shall give notice to the Health Authority—
- (a) in the case of consent under paragraph (6), where they propose any reduction in the level of the services in respect of which the consent was given; and
 - (b) in the case of consent under paragraph (7), of any change either in the facilities available at, or the charges made by, the provider in respect of which the consent was given.
- (10) Where a Health Authority receives notice as mentioned in paragraph (9), it shall either confirm or withdraw its consent.
- (11) For the purposes of this regulation—
- (a) “district nursing services” means services provided by or under the direction of a nurse who is employed by a Health Authority or an NHS Trust and who has a qualification in district nursing recorded in the register of qualified nurses, midwives and health visitors prepared and maintained by the Central Council for Nursing, Midwifery and Health

visiting in accordance with section 10 of the Nurses, Midwives and Health Visitors Act 1979(4);

- (b) “health visiting services” means services provided by or under the direction of a health visitor who is employed by a health authority or an NHS Trust and whose name is included in Part II of the register of qualified nurses, midwives and health visitors prepared and maintained by the Central Council for Nursing, Midwifery and Health Visiting in accordance with section 10 of the Nurses, Midwives and Health Visitors Act 1979;
- (c) a member of a fund-holding practice shall be treated as connected with a provider if—
- (i) he is employed by, or is a close relative of a person who is employed by, the provider,
 - (ii) where the provider is a company, he is a director of the company or a partner of or employed by or a close relative of a person who is a director of the company,
 - (iii) he is in partnership with or is a close relative of a person who is in partnership with the provider,
 - (iv) where the provider is a fund-holding practice he is a close relative of a member of that practice,
 - (v) where the provider is an individual, he is a close relative of that individual,
 - (vi) he has a beneficial interest in the securities of the provider, or
 - (vii) he provides or has provided any services to that provider,
- and in this sub-paragraph “close relative” means a husband, wife, brother, sister, father, mother, son or daughter; and
- (d) “provider” means any person or body with whom the members of a fund-holding practice contract or propose to contract for the purchase of any of the goods and services specified in the list mentioned in paragraph (2).

Limit on provision of goods and services

21. There shall be a limit of £6,000 on the amount which may be spent out of an allotted sum on the provision of goods and services for any one individual, being a limit above which the cost of any goods and services for that individual in the financial year in question will fall to be met by the Health Authority whose primary functions include the provision of goods and services (not necessarily the goods and services in question) to the individual concerned.

Payments to staff

22.—(1) Subject to paragraphs (2), (3) and (4), the members of a fund-holding practice may apply the allotted sum for the purpose of making payments to those employees of members of the practice who are employed—

- (a) to provide treatment to the patients of the members of the practice; or
- (b) in connection with the management or administration of the practice.

(2) The payments referred to in paragraph (1) may include only those payments which could be made by virtue of paragraph 52(3) of the Statement published in accordance with regulation 34 of the National Health Service (General Medical Services) Regulations 1992(5) as it has effect on the date these Regulations are made.

(4) 1979 c. 36. See the Nurses, Midwives and Health Visitors (Parts of the Register) Order 1983 (S.I. 1983/67), amended by S.I. 1989/104 and S.I. 1989/1456 and the Nurses, Midwives and Health Visitors Rules Approval Order 1983 (S.I. 1983/873) amended by S.I. 1989/1456.

(5) S.I. 1992/635, to which there are amendments not relevant to this regulation.

(3) Where a Health Authority has, before the date on which the members of a fund-holding practice were granted recognition as a fund-holding practice, reimbursed a member of the practice in respect of a proportion of the expenses of employing a member of his staff, then the members of the fund-holding practice may apply the allotted sum for the purpose of paying, in respect of periods after that date, only that proportion of the same expenses of employing that person or of any other person employed in place of that employee to perform substantially the same functions.

(4) The members of a fund-holding practice may apply the allotted sum for the purpose of paying fees to persons for providing, on the practice premises, services which are necessary for the proper treatment of individuals who are on the lists of patients of the members of the practice.

(5) The members of a fund-holding practice shall not apply the allotted sum for the purpose of employing or engaging the services of a medical practitioner except—

- (a) for the purpose of providing to individuals who are on the lists of patients of members of the practice such services as are included in the list mentioned in regulation 20(2); or
- (b) as mentioned in regulation 23(7)(c).

(6) The members of the fund-holding practice may apply the allotted sum for the purpose of training employees of members of the practice, provided that the training will be beneficial to the patients of the members of the practice and its cost represents value for money.

Payment for management expenses

23.—(1) Where the allotted sum is determined wholly or partly by reference to the management expenses of the members of the fund-holding practice, so much of the allotted sum as represents an amount in respect of those expenses (in this regulation referred to as the “management allowance”) may be applied for the purposes of those expenses in accordance with this regulation.

(2) The amount applied out of the allotted sum for the purposes of management expenses shall not exceed the management allowance.

(3) Where the members of the practice propose to spend any part of the management allowance in accordance with either sub-paragraph (7)(d) for the purpose of buying computers, or sub-paragraph (7)(i), they shall first obtain the written consent of the Health Authority.

(4) The Health Authority shall consent to the fund-holding practice’s proposals to buy computers provided it is satisfied that the equipment proposed is suitable for the needs of the fund-holding practice and represents value for money.

(5) The Health Authority shall consent to the fund-holding practice’s proposals to spend its management allowance on rent provided it is satisfied that existing premises are being properly used, the proposed office accommodation is suitable and that the proposed rent represents value for money.

(6) Where the cost of a computer is less than that agreed with the Health Authority, any saving shall be spent only in accordance with regulation 25.

(7) For the purposes of this regulation, “management expenses” are—

- (a) the cost of employing staff in connection with the management of the allotted sum;
- (b) the cost of training members of the practice or their staff in connection with the management of the allotted sum;
- (c) the cost of either—
 - (i) employing or engaging (as an assistant or deputy) a registered medical practitioner to provide general medical services to the patients of a member of the practice who is engaged in the management of the allotted sum, or
 - (ii) paying a member of the practice for his time in connection with the management of the allotted sum,

but only up to such sum (if any) as the Secretary of State, in directions as to the allotted sum, directed was expected to be required to meet such cost;

- (d) the cost of acquiring office equipment (including computers);
- (e) the upkeep and running costs of office equipment required for the purposes of the management of the allotted sum, including computer hardware and software running costs;
- (f) the cost of specialist advice required in connection with the management of the allotted sum;
- (g) the cost of minor internal modifications to any premises from which the members of the practice carry on their practice which are required to provide office accommodation for staff employed in connection with the management of the allotted sum.
- (h) office expenses, including postage, stationery and telephone charges, which are necessarily incurred in connection with the management of the allotted sum, and
- (i) the rent payable on office accommodation used by staff employed in connection with the management of the allotted sum.

Payments to a member of the fund-holding practice

24.—(1) The members of a fund-holding practice may apply the allotted sum for the purposes of paying a medical practitioner who is a member of the practice but only—

- (a) in accordance with an arrangement made in pursuance of paragraph (2);
- (b) pursuant to regulation 23(7)(c)(ii); or
- (c) pursuant to regulation 25(2)(d) or (e).

(2) Subject to paragraphs (3) and (4), the members of a standard fund-holding practice may, with the written consent of the Health Authority, enter into an arrangement with a medical practitioner who is a member of the practice for the provision by that medical practitioner of services which are included in Part I of the list mentioned in regulation 20(2) to patients who are on the lists of patients of members of the practice.

(3) The Health Authority shall not consent to an arrangement made under paragraph (2) unless it is satisfied that—

- (a) the services to be provided are included in Part I of the list mentioned in regulation 20(2);
- (b) the medical practitioner with whom the arrangement is to be made to provide those services is suitably qualified, competent and experienced;
- (c) the facilities, including premises, for the provision of those services are suitable, and
- (d) the payments which it is proposed shall be made in respect of the provision of those services—
 - (i) are reasonable,
 - (ii) represent value for money, and
 - (iii) are to be made directly to the medical practitioner who provides the services or to the partnership of which he is a member and not to any third party.

(4) Where the members of a practice have obtained the consent of the Health Authority under paragraph (2) they shall give notice to that Health Authority of any change in the matters specified in paragraph (3).

(5) Where a Health Authority receives notice as mentioned in paragraph (4), it shall either confirm or withdraw its consent.

Savings from the allotted sum

25.—(1) The members of the fund-holding practice may discharge their obligations under regulations 19 and 20 and exercise their powers under regulations 22, 23 and 24 in such a way as to take into account any benefit to individuals on the lists of patients of the members of the practice which, in their opinion, would be derived from making savings to be applied in accordance with the following provisions of this regulation; and regulations 19, 20, 22, 23 and 24 shall be construed accordingly.

(2) Subject to paragraph (3), where the accounts for a financial year of members of a fund-holding practice have been audited in accordance with Part III of the Local Government Finance Act 1972(6), the members of a fund-holding practice may, within the period of four years after the end of that financial year, continue to apply any part of the allotted sum paid to them in respect of that financial year for the purposes specified in regulations 19, 20, 22 and 24 and, in addition, with the written consent of the Health Authority, for any one or more of the following purposes—

- (a) the purchase of material or equipment which—
 - (i) can be used for the treatment of patients of the members of the practice, or
 - (ii) enhances the comfort or convenience of patients to the members of the practice, or
 - (iii) enables the practice to be managed more effectively and efficiently; or
- (b) the purchase of material or equipment relating to health education; or
- (c) in relation to any premises from which the members of the practice carry on their practice—
 - (i) improvements to the premises, including alterations to or decoration of the premises and the purchase of furniture and furnishings, and
 - (ii) building an extension provided that no acquisition of land is involved.
- (d) the purchase of services in connection with an audit of clinical practice which relates to any of the goods and services which are included in the list of goods and services mentioned in regulation 20(2); or
- (e) commissioning research which relates to any of the goods and services included in the list mentioned in regulation 20(2); or
- (f) training for members of the fund-holding practice which is required in connection with their membership of the fund-holding practice.

(3) The Health Authority shall consent to the application of any part of an allotted sum for any of the purposes specified in paragraph (2)(a) to (f) if it is satisfied that the expenditure would—

- (a) be for the benefit of the patients of the members of the practice; and
- (b) represent value for money.

(4) Where the Health Authority refuses its consent under paragraph (3), it shall send to the members of the fund-holding practice a notice stating the reasons for its refusal and informing them of their right to appeal to the Secretary of State under paragraph (5).

(5) The members of the fund-holding practice may, within the period of 28 days beginning with the day on which the notice referred to in paragraph (4) was sent, appeal to the Secretary of State against the Health Authority's refusal of consent under paragraph (3).

(6) An appeal to the Secretary of State shall be made in writing and shall include a statement of the grounds of appeal.

(7) On any appeal under paragraph (4), the Secretary of State—

- (a) may, if he thinks fit, hold an oral hearing of the appeal and, in such a case, shall—

(6) 1982 c. 32, as amended by Schedule 4 to the 1990 Act.

- (i) appoint one or more persons to hear the appeal and to report to him on it, and
 - (ii) not less than 14 days before the date fixed for the hearing, give notice in writing to the members of the fund-holding practice and to the Health Authority; and
- (b) in determining the appeal, shall either confirm or reverse the decision of the Health Authority and shall communicate his decision, together with the reasons for it, to the members of the fund-holding practice and to the Health Authority.

Recovery of misapplied sums

26.—(1) Where the Secretary of State has determined, in accordance with this regulation, that any part of an allotted sum has been applied by the members of a fund-holding practice (or any one or more of them) otherwise than in accordance with regulation 19, 20, 22, 23, 24 and 25, the Health Authority may seek to recover that amount in accordance with paragraph (6).

(2) The Secretary of State shall send to each member of the practice a notice informing them of the amount which it is alleged has been misapplied and the nature and circumstances of the alleged misapplication and that they may make representations to the Secretary of State concerning the matter, either orally or in writing.

(3) Where the members of a fund-holding practice wish to make representations in writing, they shall do so within the period of two months beginning with the date on which the notice referred to in paragraph (2) was sent.

(4) Where the members of the practice wish to make representations orally they shall, within the period of 2 weeks beginning with the date on which the notice referred to in paragraph (2) was sent, give notice to that effect to the Secretary of State and the Secretary of State shall appoint a person or persons to hear those representations and to report to him within the period of 6 weeks of the date on which the members of the fund-holding practice gave notice under this paragraph.

(5) Where the Secretary of State, having taken into account any representations made by the members of the fund-holding practice, is satisfied that any part of an allotted sum has been misapplied as mentioned in paragraph (1), he shall—

- (a) send to each member of the practice a notice of his determination to that effect; and
- (b) include in the notice a statement of the reasons for his decision.

(6) An amount equal to that part of the allotted sum which the Secretary of State has determined has been misapplied as mentioned in paragraph (1) shall be recoverable from the members of the practice (or from any one or more of them) by the Health Authority as a civil debt.