
STATUTORY INSTRUMENTS

2022 No. 930

**The National Health Service (Pharmaceutical and Local
Pharmaceutical Services) (Amendment) Regulations 2022**

New regulation 91A

5. After regulation 91 (remuneration of NHS chemists: instruments of appointment of NHS England) insert—

“Zero or nominal product reimbursement for coronavirus vaccines and antivirals

91A.—(1) In the case of the drugs or medicines to which paragraph (2) applies, determining authorities must ensure that determinations under section 164 of the 2006 Act⁽¹⁾ (remuneration of persons providing pharmaceutical services) in respect of pharmaceutical remuneration that relates to the supply or administration of those drugs or medicines either—

- (a) do not provide for or permit any reimbursement to be paid for the cost of the drug or medicine (and so the basic price of the drug or medicine, for Drug Tariff purposes, is zero); or
 - (b) only provide for or permit nominal reimbursement to be paid for the cost of the drug or medicine.
- (2) This paragraph applies to—
- (a) a drug or medicine which is used for vaccinating or immunising people against coronavirus (“a coronavirus vaccine”), if the conditions set out in paragraph (3) are satisfied; or
 - (b) an antiviral drug or medicine which is used for preventing or treating coronavirus (“a coronavirus antiviral”), if the conditions set out in paragraph (4) are satisfied.
- (3) The conditions set out in this paragraph are—
- (a) the Secretary of State (references to whom in this regulation encompass both the Secretary of State for Health and Social Care and other Secretaries of State) has purchased coronavirus vaccines for supply as part of the health service;
 - (b) the Secretary of State has made arrangements for all or part of the Secretary of State’s stock of coronavirus vaccines, purchased as mentioned in sub-paragraph (a), to be supplied to NHS pharmacists and LPS chemists, whether directly or via an intermediary, at no cost to the NHS pharmacists or LPS chemists;
 - (c) NHS England has made arrangements for the administration of coronavirus vaccines from the stock mentioned in sub-paragraph (b) as part of an enhanced service; and

(1) Section 164 of the National Health Service Act 2006 (c. 41) has been amended by: the Health and Social Care Act 2008 (c. 14), section 141(1) and Schedule 15, Part 4; the Health and Social Care Act 2012 (c. 7), Schedule 4, paragraph 89(3); the Health Service Medical Supplies (Costs) Act 2017 (c. 23), section 1; and the Health and Care Act 2022 (c. 31), section 161(1), and Schedule 1, paragraph 1.

(d) the coronavirus vaccine in question is from that stock and administered as part of that service.

(4) The conditions set out in this paragraph are—

- (a) the Secretary of State has purchased coronavirus antivirals of a particular type for supply as part of the health service;
- (b) the Secretary of State has made arrangements for all or part of the Secretary of State's stock of that particular type of coronavirus antiviral, purchased as mentioned in sub-paragraph (a), to be supplied to NHS pharmacists and LPS chemists, whether directly or via an intermediary, at no cost to the NHS pharmacists or LPS chemists; and
- (c) the coronavirus antiviral in question—
 - (i) is from that stock, or
 - (ii) is not from that stock but is nevertheless of the particular type of coronavirus antiviral that is available at no cost to NHS pharmacists and LPS chemists under the arrangements mentioned in sub-paragraph (b).

(5) For the purposes of paragraph (4), the Secretary of State may characterise the particular type of coronavirus antivirals that are available at no cost to NHS pharmacists and LPS chemists solely by reference to the presentation of the drug or medicine (as well as by reference to its active ingredient, strength or any, or a combination of any, other distinguishing characteristics).

(6) For the avoidance of doubt, determinations under section 164 of the 2006 Act that, in accordance with this regulation—

- (a) do not provide for or permit reimbursement to be paid for the cost of a drug or medicine (and so the basic price of the drug or medicine, for Drug Tariff purposes, is zero); or
- (b) only provide for or permit nominal reimbursement to be paid for the cost of a drug or medicine,

may nevertheless provide for or permit remuneration to be paid for any service provided by a NHS pharmacist or LPS chemist, in the course of which the drug or medicine is supplied or administered.

(7) In this regulation, “nominal reimbursement” means, in the case of a drug or medicine that has been provided at no cost to a NHS pharmacist or LPS chemist, payment of an amount that is paid in place of the amount that the NHS pharmacist or LPS chemist would ordinarily make from the difference between—

- (a) the amount that they paid for the drug or medicine when they purchased it; and
- (b) the amount that they are paid by NHS England in respect of the cost of that drug or medicine (most commonly the basic price listed in the Drug Tariff), if they supply or administer that drug or medicine under arrangements for the provision of pharmaceutical or local pharmaceutical services.”.