
WELSH STATUTORY INSTRUMENTS

2019 No. 1330

The National Health Service (Amendments Relating to Serious Shortage Protocols) (Wales) Regulations 2019

Amendment of Schedule 5 to the Pharmaceutical Services Regulations

4.—(1) Schedule 5 to the Pharmaceutical Services Regulations⁽¹⁾ (terms of service for NHS appliance contractors who provide pharmaceutical services only by the provision of appliances) is amended as follows.

(2) After paragraph 4 (dispensing of appliances) insert—

“Supply in accordance with a SSP

4A.—(1) This sub-paragraph applies where—

- (a) a person requests an appliance from an NHS appliance contractor in accordance with a prescription form or repeatable prescription; and
- (b) a SSP has effect in respect of—
 - (i) the requested appliance, or
 - (ii) appliances of a specified description, and the requested appliance is of that description.

(2) Where sub-paragraph (1) applies, an NHS appliance contractor must consider whether it is reasonable and appropriate to supply in accordance with the SSP instead of in accordance with the prescription form or repeatable prescription.

(3) Where sub-paragraph (1) applies, an NHS appliance contractor may provide a different product or quantity of product to the product or quantity of product ordered on the prescription form or repeatable prescription, where—

- (a) the NHS appliance contractor is able to do so with reasonable promptness;
- (b) to do so is in accordance with the SSP; and
- (c) the NHS appliance contractor is of the opinion that supplying a different product or quantity of product to that ordered by the prescriber is reasonable and appropriate.

(4) Where an NHS appliance contractor, in accordance with sub-paragraph (3), provides a different product or quantity of product to that ordered by the prescriber—

- (a) the NHS appliance contractor must endorse the prescription or the associated batch issue accordingly (if the manner for making the endorsement is provided for in the Drug Tariff, in the manner provided for in the Drug Tariff), and the prescription or associated batch issue as so endorsed is treated as being the prescription for product reimbursement purposes (even though the supply is not in pursuance of that prescription); and
- (b) if—
 - (i) the patient to or for whom the product is provided is on a patient list, and

⁽¹⁾ Schedule 5 has been amended by [S.I. 2019/917 \(W. 162\)](#).

- (ii) the supply is of a type in relation to which the Welsh Ministers and the person who is, for the time being, the person consulted under section 89(1)(a) of the 2006 Act in respect of pharmaceutical remuneration of NHS appliance contractors, acting jointly, have issued and publicised in such manner as they see fit a recommendation to the effect that, for clinical reasons, in the case of supplies of that type, providers of primary medical services should be notified of a supply to a patient on their patient list that is in accordance with a SSP instead of in accordance with a prescription form or repeatable prescription,

the NHS appliance contractor must notify the provider of primary medical services on whose patient list the patient is, of the supply in accordance with a SSP instead of in accordance with a prescription form or repeatable prescription.

(5) Where—

- (a) sub-paragraph (1) applies;
- (b) an NHS appliance contractor is of the opinion that supplying a different product or quantity of product to that ordered by the prescriber is unreasonable or inappropriate; and
- (c) the NHS appliance contractor is able to supply the product or quantity of product ordered by the prescriber within a reasonable timescale but not with reasonable promptness,

the requirement to act with reasonable promptness in paragraph 4(2) is to be read as a requirement to act within a reasonable timescale.”

(3) In paragraph 6 (preliminary matters before providing appliances), after sub-paragraph (3) insert—

“(3A) Sub-paragraph (3) applies to the provision of an appliance in accordance with a SSP as it applies to the provision of an appliance in accordance with a prescription form or a repeatable prescription (or an associated batch issue), and for these purposes the prescription for product reimbursement purposes, as mentioned in paragraph 4A(4)(a), is treated as being the prescription in accordance with which the appliance is provided (even though the supply is not in pursuance of that prescription).”

(4) In paragraph 7 (providing appliances)—

- (a) in sub-paragraph (2), after “If the order is for” insert “, or a product to be provided in accordance with a SSP is,”,
- (b) in sub-paragraph (3), after “If the order is for” insert “, or a product to be provided in accordance with a SSP is,” and
- (c) after sub-paragraph (3) insert—

“(4) Where an NHS appliance contractor provides an appliance under paragraph 4A, the NHS appliance contractor must include with it in a written note, for the patient’s benefit, information to the effect that the product is being supplied in accordance with a SSP, identifying the particular SSP.”

(5) In paragraph 8 (refusal to provide appliances ordered), after sub-paragraph (1) insert—

“(1A) An NHS appliance contractor must refuse to provide an appliance ordered on a prescription form or a repeatable prescription where—

- (a) a SSP has effect in respect of—
 - (i) the requested appliance, or
 - (ii) appliances of a specified description, and the requested appliance is of that description; and

(b) alternative provision has already taken place in accordance with the SSP.

(1B) An NHS appliance contractor may refuse to provide an appliance ordered on a prescription form or a repeatable prescription where—

(a) a SSP has effect in respect of—

(i) the requested appliance, or

(ii) appliances of a specified description, and the requested appliance is of that description;

(b) the NHS appliance contractor is of the opinion that supplying a different product or quantity of product to that ordered by the prescriber is unreasonable or inappropriate; and

(c) the NHS appliance contractor is unable to provide the appliance within a reasonable timescale,

but if the NHS appliance contractor does refuse to do so, they must provide the patient or the person requesting the appliance on behalf of the patient with appropriate advice, as necessary, about reverting to the prescriber for the prescriber to review the patient's treatment.”