

THE NATIONAL HEALTH SERVICE ACT 2006

The Schedule 14 Determination and Designation (No. 2) 2012

The Secretary of State makes the following determination under paragraph 4(2) of Schedule 14 to the National Health Service Act 2006(a) and the following designation under paragraph 3A(1) of that Schedule(b), read with paragraph 4(1) of that Schedule(c).

Citation and commencement

1. This Instrument may be cited as the Schedule 14 Determination and Designation (No. 2) 2012 and comes into force on 1st September 2012.

Determination under paragraph 4(2): remuneration treated as remuneration referable to the cost of drugs

2.—(1) The Secretary of State determines under paragraph 4(2) of Schedule 14 to the National Health Service Act 2006 that the reimbursement costs which—

- (a) the NHS Business Services Authority(d) includes in its Itemised Prescription Payment Reports;
- (b) Primary Care Trusts are required to pay to persons providing pharmaceutical services or local pharmaceutical services;
- (c) are in respect of medicines and other products lawfully dispensed in accordance with the Drug Tariff; and
- (d) the Secretary of State does not treat as remuneration to be met by an NHS trust or an NHS foundation trust,

must be treated for the purposes of Schedule 14 to the National Health Services Act 2006 as remuneration referable to the cost of drugs.

(2) Reimbursement costs relating to Home Oxygen Services are not covered by this determination.

Designation under paragraph 3A(1): designated remuneration which is not remuneration referable to the cost of drugs

3.—(1) The Secretary of State designates under paragraph 3A(1) of Schedule 14 to the National Health Services Act 2006 the elements of remuneration (which are not remuneration referable to the cost of drugs) which—

- (a) the NHS Business Services Authority includes in its Remuneration Reports;
- (b) are paid by Primary Care Trusts to persons providing pharmaceutical services or local pharmaceutical services;

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- (a) 2006 c. 41. By virtue of section 271(1) of the 2006 Act, the functions of the Secretary of State being exercised in the making of this instrument are exercisable only in relation to England.
 - (b) Paragraph 3A was inserted by the Health and Social Care Act 2008 (c.14), Schedule 12, paragraph 5(1) and (3).
 - (c) Paragraph 4(1) contains a definition of “designate” (inserted by the Health and Social Care Act 2008, Schedule 12, paragraph 5(1) and (4)(a)) which is relevant to the powers being exercised.
 - (d) Established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005 (S.I. 2005/2414).

- (c) are in respect of—
- (i) fees and allowances (including the rechargeable costs that are, or are associated with, prescription charges) paid in accordance with the Drug Tariff,
 - (ii) fines for breaches of terms of service that are credited to the Primary Care Trust of the contractor responsible for the breach,
 - (iii) payments made to a suspended contractor in accordance with a determination under—
 - (aa) regulation 58 of the National Health Service (Pharmaceutical Services) Regulations 2005(a) (payments to suspended chemists), or
 - (bb) regulation 98 of the National Health Service (Pharmaceutical Services) Regulations 2012(b) (payments to suspended chemists),
 - (iv) payments for advanced services provided in accordance with—
 - (aa) the Pharmaceutical Services (Advanced and Enhanced Services) (England) Directions 2011(c), or
 - (bb) the Pharmaceutical Services (Advanced and Enhanced Services) (England) Directions 2012(d), or
 - (v) payments made in accordance with the Schedule to the Local Pharmaceutical Services (Essential Small Pharmacies) Directions 2005(e); and
- (d) the Secretary of State does not treat as remuneration to be met by an NHS trust or an NHS foundation trust.
- (2) The following fees and allowances are not covered by this designation—
- (a) any payable to dispensing doctors;
 - (b) any payable under primary medical services contracts in respect of personally administered drugs or appliances;
 - (c) any payable in respect of Home Oxygen Services; and
 - (d) any which are remuneration referable to the cost of drugs covered by the determination under paragraph 2.

(a) S.I. 2005/641; regulation 58 has been amended by S.I. 2006/3373. The 2005 Regulations were revoked with effect from 1st September 2012 by S.I. 2012/1909.

(b) S.I. 2012/1909.

(c) Signed on 22nd September 2011. These Directions are revoked with effect from 1st September 2012 by the Pharmaceutical Services (Advanced and Enhanced Services) (England) Directions 2012, signed on 20th July 2012.

(d) Signed on 20th July 2012.

(e) Signed on 28th October 2005 and subsequently amended by: the National Health Service (Miscellaneous Amendments Relating to Prescribing, Pharmaceutical Services and Local Pharmaceutical Services etc.) (England) Directions 2006, signed on 8th March 2006; the Local Pharmaceutical Services (Essential Small Pharmacies) Directions 2007, signed on 22nd February 2007 and revoked with effect from 1st October 2008; the Local Pharmaceutical Services (Essential Small Pharmacies) (Amendment) Directions 2008, signed on 30th September 2008 and revoked with effect from 1st February 2010; the Local Pharmaceutical Services (Essential Small Pharmacies) (Amendment) (No. 2) Directions 2008, signed on 14th November 2008 and revoked with effect from 1st February 2010; the Local Pharmaceutical Services (Essential Small Pharmacies) (Amendment) Directions 2010, signed on 29th January 2010; the Local Pharmaceutical Services (Essential Small Pharmacies) (Amendment) (No. 2) Directions 2010, signed on 30th September 2010; the Local Pharmaceutical Services (Essential Small Pharmacies) (Amendment) (No. 3) Directions 2010, signed on 30th November 2010 and revoked by these Directions with effect from 1st December 2011; the Local Pharmaceutical Services (Essential Small Pharmacies) (Amendment) Directions 2011, signed on 29th November 2011; and the Local Pharmaceutical Services (Essential Small Pharmacies) (Amendment) Directions 2012, signed on 20th July 2012.

Revocation

4. The instrument cited as the Schedule 14 Determination and Designation 2012(a) is revoked.

Signed by authority of the Secretary of State for Health



20th July 2012

Jeannette Howe
Head of Pharmacy
Department of Health

(a) Signed on 2nd March 2012.

