
S U B O R D I N A T E L E G I S L A T I O N

WG - No. 20-59

**THE NATIONAL HEALTH SERVICE (WALES) ACT
2006**

**Directions to Local Health Boards as to the Statement of
Financial Entitlements (Provision of Enhanced Services during
the Relaxation Phase of the COVID-19 Pandemic) Directions
2020**

Made *19 November 2020*

Coming into force *20 November 2020*

The Welsh Ministers in exercise of the powers conferred on them by sections 45, 203(9) and (10) and 204(1) of the National Health Service (Wales) Act 2006(1), and after consulting in accordance with section 45(4) of that Act with the bodies appearing to them to be representative of persons to whose remuneration these Directions relate, give the following Directions.

Title, application, commencement and interpretation

1.—(1) The title of these Directions is the Directions to Local Health Boards as to the Statement of Financial Entitlements (Provision of Enhanced Services during the Relaxation Phase of the COVID-19 Pandemic) Directions 2020.

(2) These Directions are given to Local Health Boards. They relate to the payments to be made by Local Health Boards to a GMS contractor under a GMS contract.

(3) These Directions come into force on 20 November 2020 and expire on 1 October 2021.

(4) These Directions have effect from 1 October 2020.

(5) In these Directions—

“baseline period” means the period beginning with 1 April 2019 and ending with 31 March 2020;

“enhanced service” means a service listed in column 1 of Table 1, or column 1 of Table 2, in the Schedule to these Directions;

“financial year” means a year ending with 31 March;

“GMS contract” means a general medical services contract entered into in accordance with section 42 of the National Health Service (Wales) Act 2006;

“GMS contractor” means a contractor who provides primary medical services under a GMS contract;

“Local Health Board” means a Local Health Board established in accordance with section 11(2) of the National Health Service (Wales) Act 2006;

(1) 2006 c. 42.

“post payment verification” means the process undertaken by NHS Wales Shared Services Partnership(1) to provide assurance to Local Health Boards that the claims for payment made by GMS contractors are correct and in accordance with the Directions to Local Health Boards as to the Statement of Financial Entitlements Directions 2013(2), relevant Local Health Board procedures and individual enhanced service specifications;

“quarter” means each three month period ending on March 31, June 30, September 30 and December 31;

“relevant Local Health Board” means the Local Health Board in whose area the contractor’s practice premises are situated;

“recovery phase” means the period beginning with 1 July 2020 and ending with 30 September 2020;

“relaxation phase” means the period beginning with 1 October 2020 and ending with 30 September 2021; and

“Statement of Financial Entitlements” means any directions given by the Welsh Ministers pursuant to section 45 of the National Health Service (Wales) Act 2006 in relation to payments to be made by a Local Health Board to a GMS contractor.

Enhanced Services during the relaxation phase of the COVID-19 pandemic

2. During the relaxation phase GMS contractors must provide enhanced services in accordance with column 2 of the table in the Schedule to these Directions.

3. GMS contractors must ensure that clinicians delivering any enhanced service during the relaxation phase use clinical judgement in the provision of care to patients. In so doing, clinicians may consider the use of telephone and video consultation, as appropriate, as well as delaying routine activity such as annual reviews, as long as they are satisfied the patient is stable and well controlled. Clinicians should prioritise patients who are not well controlled and ensure they receive the care they need.

Payments for Enhanced Services during the relaxation phase of the COVID-19 pandemic

4.—(1) A GMS contractor who provides an enhanced service during the relaxation phase must submit a claim for payment to the relevant Local Health Board in accordance with paragraph (2) or (3) in order to receive a payment for the provision of that enhanced service.

(2) A Local Health Board must pay a GMS contractor who provides an enhanced service during the relaxation phase in accordance with—

(a) column 2 of Table 1 in the Schedule to these Directions, the sum of whichever is the greater of—

(i) the claim submitted for that enhanced service for activity completed by the GMS contractor during a quarter of the relaxation phase, pursuant to the relevant Directions for that enhanced service, or

(ii) the payment the GMS contractor received for activity completed during the corresponding quarter in the baseline period pursuant to the relevant Directions for that enhanced service; or

(b) column 2 of Table 2 in the Schedule to these Directions, the sum of the claim submitted for that enhanced service for activity completed by the GMS contractor during a quarter of the relaxation phase, pursuant to the relevant Directions for that enhanced service.

(3) A Local Health Board must pay a GMS contractor who provides an enhanced service for a part of the relaxation phase in accordance with—

(1) NHS Wales Shared Services Partnership was established by the Velindre National Health Service Trust Shared Services Committee (Wales) Regulations 2012, S.I. 2012/1261 (W. 156).

(2) 2013 No.8.

- (a) column 2 of Table 1 in the Schedule to these Directions but subsequently withdraws its provision of that enhanced service, the sum of whichever is the greater of—
 - (i) the claim submitted for that enhanced service by the GMS contractor for the period of the relaxation phase that the contractor provided the enhanced service, pursuant to the relevant Directions for that enhanced service, or
 - (ii) the payment the GMS contractor received for activity completed for that enhanced service for the period mentioned in sub-paragraph (a) in the baseline period; or
- (b) column 2 of Table 2 in the Schedule to these Directions but subsequently withdraws its provision of that enhanced service, the sum of the claim submitted for that enhanced service by the GMS contractor for the period of the relaxation phase that the contractor provided the enhanced service, pursuant to the relevant Directions for that enhanced service.

(4) A GMS contractor who provided an enhanced service for the financial year 2019/20 is not entitled to receive any payment for that enhanced service during the relaxation phase if the GMS contractor—

- (a) has not been commissioned to provide that enhanced service for financial year 2020/21 or financial year 2021/22,
- (b) has been commissioned to provide, but subsequently gives the relevant Local Health Board notice of its decision to withdraw the provision of, that enhanced service for financial year 2020/21 or financial year 2021/22, or
- (c) does not submit a claim for payment to the relevant Local Health Board in respect of the period of the relaxation phase that the contractor provided the enhanced service.

(5) The relevant Local Health Board must make payments monthly or quarterly, in arrears, and such payments will be payable on the first date after the payment is authorised on which the engaged GMS contractor's Global Sum monthly payment falls due in accordance with the Statement of Financial Entitlements.

Overpayments and withheld amounts

5. At the end of the relaxation phase a reconciliation exercise will be undertaken and if a Local Health Board has made a payment to a GMS contractor under its GMS contract for the provision of enhanced services pursuant to these Directions and—

- (a) the GMS contractor was not entitled to receive all or part thereof, whether because—
 - (i) the GMS contractor did not meet the required threshold set to receive the payment for the relevant enhanced service, or
 - (ii) the payment was calculated incorrectly (including where a payment on account overestimates the amount that is to fall due);
- (b) the Local Health Board was entitled to withhold all or part of the payment because the GMS contractor has not met the threshold set for the relevant enhanced service attached to the payment, but is unable to do so because the money has already been paid; or
- (c) the Local Health Board is entitled to repayment of all or part of the money paid,

the Local Health Board may recover the money paid by deducting an equivalent amount from any payment payable pursuant to the Directions of the Welsh Ministers applicable to the relevant enhanced service (in instalments, where that is appropriate), and where no such deduction can be made, it is a condition of the payments made pursuant to these Directions that the contractor must pay to the Local Health Board that equivalent amount.

Underpayments and late payments

6. If the full amount of a payment that is payable pursuant to these Directions has not been paid before the date on which the payment falls due under Direction 4(5), then unless—

- (a) this is with the consent of the GMS contractor; or
- (b) the amount of, or entitlement to, the payment, or any part thereof, is in dispute,

once it falls due, it must be paid promptly (see regulation 22 of the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004(1)).

7. If the GMS contractor's entitlement to the payment is not in dispute but the amount of the payment is in dispute, then once the payment falls due under Direction 4(5), pending the resolution of the dispute, the Local Health Board must—

- (a) pay to the GMS contractor, promptly, an amount representing the amount that the Local Health Board accepts that the GMS contractor is at least entitled to, and
- (b) thereafter pay any shortfall promptly, once the dispute is finally resolved.

8. However, if a GMS contractor has—

- (a) not claimed a payment to which it would be entitled pursuant to these Directions if it claimed the payment; or
- (b) claimed a payment to which it is entitled pursuant to these Directions but a Local Health Board is unable to calculate the payment until after the payment is due to fall due because it does not have the information it needs in order to calculate that payment (all reasonable efforts to obtain the information having been undertaken),

that payment is (instead) to fall due on the first working day of the month after the month during which the Local Health Board obtains the information it needs in order to calculate the payment.

Payments on account

9. Where the Local Health Board and the GMS contractor agree (but the Local Health Board's agreement may be withdrawn where it is reasonable to do so and if it has given the GMS contractor reasonable notice thereof), the Local Health Board must pay to a GMS contractor on account any amount that is—

- (a) the amount of, or a reasonable approximation of the amount of, a payment that is due to fall due pursuant to these Directions; or
- (b) an agreed percentage of the amount of, or a reasonable approximation of the amount of, a payment that is due to fall due pursuant to these Directions, and if that payment results in an overpayment in respect of the payment, Direction 5 applies.

Time limitation for claiming payments

10. GMS contractors must make a claim for payment under these Directions no later than 31 October 2021.

Reporting on enhanced services during the relaxation phase

11. Any requirement for a GMS contractor to make a report on an enhanced service contained in Directions of the Welsh Ministers applies to the provision of enhanced services during the relaxation phase.

Post payment verification

12. Post payment verification applies to the provision of enhanced services during the relaxation phase.

Dispute resolution

13. Any disputes arising as a result of the provision of an enhanced service pursuant to these Directions will be dealt with in accordance with Part 7 of Schedule 6 to the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004.

(1) S.I. 2004/478.

Amendment to the Primary Medical Services (COVID-19 Care Homes) (Directed Enhanced Services) (Wales) Directions 2020

14. In Direction 1(2) of the Primary Medical Services (COVID-19 Care Homes) (Directed Enhanced Services) (Wales) Directions 2020(1) omit “and expire on 31 March 2021”.

Saving of the Directions to Local Health Boards as to the Statement of Financial Entitlements (Provision of Enhanced Services during the Recovery Phase of the COVID-19 Pandemic) Directions 2020

15. The Directions to Local Health Boards as to the Statement of Financial Entitlements (Provision of Enhanced Services during the Recovery Phase of the COVID-19 Pandemic) Directions 2020 continue to apply to claims for payment made by a GMS contractor in respect of the period beginning with 1 July 2020 and ending 30 September 2020.



Signed by Alex Slade, Deputy Director, Primary Care Division under the authority of the Minister for Health and Social Services, one of the Welsh Ministers

Date: 19 November 2020

(1) WG – No. 20-30.

SCHEDULE

Table 1

<i>Directed Enhanced Service</i>	<i>GMS contractor action during relaxation phase</i>
Learning Disabilities	<p>Provision in accordance with Direction 10 of the Primary Medical Services (Directed Enhanced Services) Directions 2007, subject to—</p> <ul style="list-style-type: none"> (a) the use of telephone or video consultation as the default position, using face to face only when necessary, (b) recognising that part of the review can be completed electronically, and (c) attaining, in total for the relaxation phase, at least 75% of the activity claimed for the baseline period.
Gender Identity	<p>Provision in accordance with the Primary Medical Services (Hormone Treatment Scheme for Adult Transgender Patients) (Directed Enhanced Service) (Wales) Directions 2019 subject to—</p> <ul style="list-style-type: none"> (a) contacting the patient on the day of the appointment to assess whether they are symptomatic, and (b) attaining, in total for the relaxation phase, at least 75% of the activity claimed for the baseline period.
Services for Violent Patients	<p>Provision in accordance with Direction 7 of the Primary Medical Services (Directed Enhanced Services) Directions 2007 subject to NHS 111 triage assessment of the patient on the day of the appointment.</p>
Minor Surgery Fee	<p>Provision in accordance with Direction 8 of the Primary Medical Services (Directed Enhanced Services) Directions 2007, subject to—</p> <ul style="list-style-type: none"> (a) contacting the patient on the day of the appointment to assess whether they are symptomatic, (b) minimising the number of clinicians who see the patient, and (c) attaining, in total for the relaxation phase, at least 50% of the activity claimed for the baseline period for— <ul style="list-style-type: none"> (i) excisions, in which interventions have been clearly justified in respect of INNU policies and why 3Cs removal was not indicated

	<p>over the 12 months, and</p> <p>(ii) injections.</p>
Asylum Seekers & Refugees (from 1 April 2008)	<p>Provision in accordance with Direction 5 of the Primary Medical Services (Directed Enhanced Services) (Wales) (No. 2) Directions 2009, subject to—</p> <ul style="list-style-type: none"> (a) the use of telephone or video consultation as the default position, using face to face only when necessary (b) recognising that part of the review can be completed electronically, and (c) attaining, in total for the relaxation phase, at least 75% of the activity claimed for the baseline period.
Care of Diabetes	<p>Provision in accordance with Direction 8 of the Primary Medical Services (Directed Enhanced Services) (Wales) (No. 2) Directions 2009, subject to—</p> <ul style="list-style-type: none"> (a) prioritising those patients known to have poor compliance with, or control of, their condition, (b) contacting the patient on the day of the appointment to assess whether they are symptomatic, (c) recognising that part of the review can be completed electronically, and (d) attaining, in total for the relaxation phase, at least 75% of the activity claimed for the baseline period.
Type 2 Diabetes Mellitus Care Scheme for Adults	<p>Provision in accordance with the Primary Medical Services (Type 2 Diabetes Mellitus Care Scheme for Adults) (Directed Enhanced Services) (Wales) Directions 2017, subject to—</p> <ul style="list-style-type: none"> (a) prioritising those patients known to have poor compliance with, or control of, their condition, (b) contacting the patient on the day of the appointment to assess whether they are symptomatic, (c) recognising that part of the review can be completed electronically, and (d) attaining, in total for the relaxation phase, at least 75% of the activity claimed for the baseline period.
Care Homes	<p>Provision in accordance with the Primary Medical Services (COVID-19 Care Homes) (Directed Enhanced Services) (Wales) Directions 2020.</p>
Extended Surgery Opening	<p>Provision in accordance with Direction 4 of the Primary Medical Services (Directed Enhanced Services) (Wales) (No. 2) Directions 2009 subject to the use of telephone or video consultation as the default position, using face</p>

	to face only when necessary.
Homeless	<p>Provision in accordance with Direction 6 of the Primary Medical Services (Directed Enhanced Services) (Wales) (No. 2) Directions 2009, subject to—</p> <ul style="list-style-type: none"> (a) the use of telephone or video consultation as the default position, using face to face only when necessary, (b) recognising that part of the review can be completed electronically, and (c) attaining, in total for the relaxation phase, at least 75% of the activity claimed for the baseline period.
Oral Anticoagulation with Warfarin	<p>Provision in accordance with the Primary Medical Services (Oral Anti-coagulation with Warfarin) (Directed Enhanced Service) (Wales) Directions 2017 subject to—</p> <ul style="list-style-type: none"> (a) contacting the patient on the day of the appointment to assess whether they are symptomatic, (b) booking appointments with more intervals to create space in the waiting room, and (c) considering whether to switch to novel oral anticoagulants (NOACs) or using self-monitoring.

Table 2

<i>Directed Enhanced Service</i>	<i>GMS contractor action during relaxation phase</i>
Childhood Immunisation Scheme	<p>Provision in accordance with Direction 5 of the Primary Medical Services (Directed Enhanced Services) (Wales) Directions 2007 subject to—</p> <ul style="list-style-type: none"> (a) contacting the patient on the day of the appointment to assess whether they are symptomatic, (b) booking appointments with more intervals to create space in the waiting room, (c) provision of dedicated children's session, and (d) minimising number of clinicians who see the patient.
Influenza Immunisations Scheme	<p>Provision in accordance with Direction 6 of the Primary Medical Services (Directed Enhanced Services) Directions 2007 subject to—</p> <ul style="list-style-type: none"> (a) contacting the patient on the day of the appointment to assess whether they are symptomatic, (b) booking appointments with more intervals to create space in the waiting

Pneumococcal Immunisations Scheme

room, and

- (c) minimising the number of clinicians who see the patient.

Provision in accordance with Direction 6 of the Primary Medical Services (Directed Enhanced Services) Directions 2007 subject to—

- (a) prioritising the use of Pneumococcal polysaccharide vaccine (PPV23) vaccine on the basis of individual assessment and in accordance with any relevant guidance published by the Welsh Government,
- (b) contacting the patient on the day of the appointment to assess whether they are symptomatic,
- (c) booking appointments with more intervals to create space in the waiting room, and
- (d) minimising the number of clinicians who see the patient.

Pertussis Immunisation for Pregnant and Post-natal Women

Provision in accordance with the Primary Medical Services (Pertussis Immunisation for Pregnant and Post-natal Women) (Directed Enhanced Services) (Wales) Directions 2016 subject to contacting the patient on the day of the appointment to assess whether they are symptomatic.
