
D I R E C T I O N S

2010 No. (W. 40)

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

**The National Health Service
(Reimbursement of the Cost of EEA
Treatment) (Wales) Directions 2010**

Made 5 August 2010

Coming into force 5 August 2010

The Welsh Ministers, in exercise of the powers conferred on them by sections 12(3), 203(9) and (10) and 204 of the National Health Service (Wales) Act 2006(1), hereby give the following Directions—

PART 1

Introductory

Title, commencement and application

1.—(1) The title of these Directions is The National Health Service (Reimbursement of the Cost of EEA Treatment) (Wales) Directions 2010.

(2) These directions come into force on 5 August 2010.

(3) These Directions apply to functions Local Health Boards are directed to exercise under direction 3 relating to—

- (a) applications for the reimbursement of the costs of services provided in another EEA state in accordance with section 6A (reimbursement of cost of services provided in another EEA state) of the NHS (Wales) Act(2); and
- (b) requests for prior authorisation of the provision of services to be provided by an authorised provider in an EEA state other than

(1) 2006 c.42.

(2) Section 6A was inserted by S.I. 2010/915.

the United Kingdom under section 6B (prior authorisation for the purposes of section 6A) of the NHS (Wales) Act⁽¹⁾.

Interpretation

2. In these Directions—

“the NHS (Wales) Act” [”*Deddf y GIG (Cymru)*”] means the National Health Service (Wales) Act 2006;

“responsible authority” [”*awdurdod cyfrifol*”] means, in relation to a patient, the Local Health Board responsible for that patient pursuant to regulation 2(2) of the Local Health Boards (Directed Functions) (Wales) Regulations 2009⁽²⁾; and

“working day” [”*diwrnod gwaitu*”] means any day other than—

- (a) a Saturday or a Sunday,
- (b) Christmas Day or Good Friday,
- (c) a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971⁽³⁾.

Exercise of functions under sections 6A and 6B of the NHS (Wales) Act

3.—(1) The Welsh Ministers direct each Local Health Board to exercise the functions of the Welsh Ministers under section 6A (reimbursement of cost of services provided in another EEA state) of the NHS (Wales) Act in accordance with the directions in Part 2.

(2) The Welsh Ministers direct each Local Health Board to exercise the functions of the Welsh Ministers under section 6B (prior authorisation for the purposes of section 6A) of the NHS (Wales) Act in accordance with the directions in Part 3.

(3) The Welsh Ministers direct each Local Health Board to provide information and assistance in accordance with the directions in Part 4.

(1) Section 6B was inserted by S.I. 2010/915.
(2) S.I. 2009/1511 (W.147).
(3) 1971 c.80.

PART 2

Applications for reimbursement of costs

Duty to reimburse

4.—(1) Each Local Health Board must establish and publish its procedures for the determination of applications under section 6A of the NHS (Wales) Act from patients for whom it is or was the responsible authority at the time that the qualifying EEA expenditure⁽¹⁾ was incurred.

(2) The procedures for the determination of such applications must include provision for a review of the determination by the Local Health Board.

Time for determination of an application for reimbursement

5.—(1) Subject to paragraphs (2) and (3), each Local Health Board must determine an application for reimbursement within 20 working days beginning on the date on which it received the application.

(2) Where the application for reimbursement does not contain sufficient information to enable the Local Health Board to determine the application, the Local Health Board must inform the applicant within 20 working days beginning on the date on which it received the application of the information that it requires in order for it to determine the application.

(3) Where a Local Health Board requires further information to determine the application, the Local Health Board must determine the application within 10 working days beginning on the date on which it received the information it required in accordance with paragraph (2).

Form and content of the determination

6.—(1) Each Local Health Board must inform the applicant in writing of its determination of the application for reimbursement.

(2) Except where the determination is to reimburse the full amount claimed by the applicant, the determination must—

- (a) set out the information considered by the Local Health Board in reaching its determination;
- (b) the reasons for its determination; and
- (c) the steps an applicant must take if the applicant disagrees with the decision and

(1) “Qualifying EEA expenditure” is defined in section 6A(2) of the National Health Service (Wales) Act 2006.

wishes to request a review of the determination by the Local Health Board.

PART 3

Applications for prior authorisation

Duty to determine applications for prior authorisation

7.—(1) Each Local Health Board must establish and publish its procedures for the determination of applications for prior authorisation under section 6B of the NHS (Wales) Act from patients for whom it is the responsible authority.

(2) The procedures under paragraph (1) must include provision for a review of the determination by the Local Health Board.

Time for determination of an application for prior authorisation

8.—(1) Subject to paragraphs (2) and (3), each Local Health Board must determine an application for prior authorisation within 20 working days beginning on the date on which it received the application.

(2) Where the application for prior authorisation does not contain sufficient information to enable the Local Health Board to determine the application, the Local health Board must inform the applicant within 10 working days beginning on the date on which it received the application of the information that is required to determine the application.

(3) Where a Local Health Board requires further information to determine the application the Local Health Board must determine the application within 10 working days beginning on the date on which it received the information it required in accordance with paragraph (2).

Form and content of the determination

9.—(1) Each Local Health Board must inform the applicant in writing of its determination of the application for prior authorisation.

(2) Except where the determination is to grant the authorisation sought by the applicant, the determination must—

- (a) set out the information considered by the Local Health Board in reaching its determination;
- (b) the reasons for its determination; and

- (c) the steps an applicant must take if the applicant disagrees with the decision and wishes to request a review of the determination by the Local Health Board.

PART 4

Provision of information and assistance

Duty to publish information about special services subject to prior authorisation

10.—(1) Each Local Health Board must publish information which identifies those services which the Local Health Board makes available to persons for whom it is the responsible authority that are special services⁽¹⁾ for which prior authorisation is required in accordance with section 6B of the NHS (Wales) Act.

Duty to publish information on procedures for reimbursement and prior authorisation

11. Each Local Health Board must publish and make available—

- (a) information about the procedures that the Local Health Board has in place for reimbursement under section 6A of the NHS (Wales) Act and for prior authorisation under section 6B of the NHS (Wales) Act;
- (b) a copy of the form in which an application for reimbursement or prior authorisation must be made; and
- (c) its requirements as to the information that must be supplied to support an application for reimbursement or prior authorisation.

Advice and assistance

12.—(1) Each Local Health Board must provide advice and assistance to persons who are contemplating seeking medical or dental treatment in another EEA state or who wish to claim reimbursement of the costs of services provided in another EEA state.

(1) “Special service” is defined in section 6A(11) of the National Health Service (Wales) Act 2006.

13.Such advice and assistance is to be limited to guidance about the procedures to be followed (and is not to include legal or medical advice).

Signed by Simon Dean, Director of Strategy and Planning, Health and Social Services Directorate General under the authority of the Minister for Health and Social Services, one of the Welsh Ministers

Date 5 August 2010

