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## DIRECTIONS

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### **NATIONAL HEALTH SERVICE ACT 2006**

#### **The NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Recovery of Prescription Charges) Directions 2014**

The Secretary of State for Health gives the following directions in exercise of the powers conferred by sections 192(6) and 272(7) and (8) of the National Health Service Act 2006(a).

#### **Citation, commencement and interpretation**

1.—(1) These Directions may be cited as the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Recovery of Prescription Charges) Directions 2014 and come into force immediately after they are signed.

(2) In these Directions—

“the 2006 Act” means the National Health Service Act 2006;

“the Board” means the National Health Service Commissioning Board;

“the NHSBSA” means the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) established by the NHS Business Services Authority (Awdurdod Gwananaethau Busnes y GIG) (Establishment and Constitution) Order 2005(b);

“the Penalty Charge Regulations” means the National Health Service (Penalty Charge) Regulations 1999(c); and

“the Prescription Charges Regulations” means the National Health Service (Charges for Drugs and Appliances) Regulations 2000(d).

#### **NHSBSA functions in relation to the Prescription Charges Regulations**

2. The NHSBSA is directed to exercise the functions of the Board under regulation 7(7)(a) of the Prescription Charges Regulations (exemptions).

#### **NHSBSA functions as a responsible authority in relation to penalty charges**

3.—(1) Where—

(a) a charge in respect of the provision of a medicine or drug, or a payment in respect of the cost of obtaining a medicine or drug, is an amount that is recoverable pursuant to section 192(1) of the 2006 Act (recovery of charges in relation to goods and services); and

(b) the responsible body for the purposes of the recovery of that amount is the Board,

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(a) 2006 c.41. By virtue of section 271(1) of the National Health Service Act 2006, the powers conferred by these sections are exercisable by the Secretary of State in relation to England only.

(b) S.I. 2005/2414, as amended by S.I. 2006/632, 2007/1201 and 2013/235.

(c) S.I. 1999/2794.

(d) S.I. 2000/620; amended by S.I. 2000/2393 and 3189, 2001/2887, 2002/548 and 2352, 2003/699 and 1084, 2004/663, 696 and 865, 2005/578, 2006/562, 675 and 913, 2007/1510 and 1975, 2008/571, 1697, 1700 and 2593, 2009/29, 411, 1166 and 2230, 2010/231 and 1727, 2011/518, 2012/470, 1909 and 1916, 2013/475, and 2014/545.

the functions of the Board under the 2006 Act in relation to the recovery of such a charge, and the functions of the Board under section 192 and 193 (penalties relating to charges) of the 2006 Act in relation to such an amount (including the Board's functions under the Penalty Charge Regulations), are to be performed by the NHSBSA, and the NHSBSA is directed accordingly.

- (2) Without prejudice to the generality of paragraph (1), those functions include—
- (a) examining and checking a proportion of claims for exemption and remission of prescription charges including those made under—
    - (i) the Prescription Charges Regulations, and
    - (ii) the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(a);
  - (b) identifying possible cases of fraud or error;
  - (c) contacting patients to establish whether loss has occurred;
  - (d) where a person has failed to pay any charge which is a recoverable amount as referred to in section 193(1)(a) or (b) of the 2006 Act, preparing and serving penalty notices and calculating and determining a penalty charge, and surcharge, in accordance with the Penalty Charge Regulations;
  - (e) recovering such charges as are recoverable, including penalty charges and surcharges;
  - (f) taking enforcement action—
    - (i) in relation to the recovery of such charges that are recoverable in accordance with section 192 of the 2006 Act and the Penalty Charge Regulations, and
    - (ii) to recover the relevant charges, penalties or surcharges as civil debts; and
  - (g) publicising the arrangements for the prevention of fraud and anti-fraud activity undertaken under the Penalty Charge Regulations and the Prescription Charges Regulations, but before any publicity material is published by the NHSBSA pursuant to this sub-paragraph, that publicity material must be approved by the Secretary of State.
- (3) The NHSBSA is directed to—
- (a) process, assess and monitor the information it receives as a result of exercising the Board's functions mentioned in paragraph (2); and
  - (b) provide timely reports to the Board in respect of that information, setting out in particular information which the NHSBSA considers might be evidence of unlawful activity or an irregularity or which is otherwise unusual.
- (4) Where the functions of the NHSBSA under paragraph (2) make it necessary or desirable for NHSBSA to have access to data held by the Department for Work and Pensions, HMRC, or the Veterans Agency for the purposes of establishing whether an amount was payable, it is to be assumed for the purposes of section 35(1) of the Data Protection Act 1998(b) (disclosure required by law or made in connection with legal proceedings) that the disclosure of personal data to the NHSBSA is required for the purposes of establishing legal rights.

### **Amendment of the Pharmaceutical and Local Pharmaceutical Services (Prescriptions, Payments and Listings) Directions 2013**

**4.** In the Pharmaceutical and Local Pharmaceutical Services (Prescriptions, Payments and Listings) Directions 2013(c), after direction 5 (NHSBSA functions relating to pharmaceutical remuneration and prescription charging) insert—

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(a) S.I. 2003/2382; regulation 5 has been amended by S.I. 2004/663 and 936, 2006/562, 2008/1697, 2009/411, 2013/475 and 1600 and 2014/545.

(b) 1998 c.29.

(c) The Pharmaceutical and Local Pharmaceutical Services (Prescriptions, Payments and Listings) Directions 2013 were signed on 27th of March 2013 and are available on the [www.gov.uk](http://www.gov.uk) website.

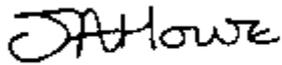
**“NHSBSA functions relating to patient fraud**

**5A.** In cases where the NHSBSA identifies actual or possible patient fraud, the NHSBSA is directed that it must, where the NHSBSA considers it appropriate to do so, perform the functions of the Board in respect of contacting an ESP chemist, an NHS chemist or a dispensing doctor regarding the actual or possible patient fraud, where it is identified as taking place at their premises, for the purposes of providing information, feedback and advice.”.

**Transitional provision for existing cases**

**5.** Cases that are already under investigation or subject to proceedings before these Directions come into force are to be investigated and proceeded against as if these Directions had not been made.

Signed by authority of the Secretary of State for Health



12th September 2014

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