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Standard Alternative Provider Medical Services Contract Variation Notice

November 2022

Standard Alternative Provider Medical Services (APMS) Contract Variation Notice

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Prepared by Hill Dickinson on behalf of NHS England

The text of the Standard Alternative Provider Medical Services (APMS) Contract Variation Notice October 2022 has been prepared by Hill Dickinson on behalf of NHS England.

It is prepared on the basis that the numbering adopted in the signed contract follows that used in the Standard Alternative Provider Medical Services Contract.

Equalities and health inequalities statement

"Promoting equality and addressing health inequalities are at the heart of NHS England's values. Throughout the development of the policies and processes cited in this document, we have:

- given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it;
- given regard to the need to reduce inequalities between patients in access to, and outcomes from, healthcare services and in securing that services are provided in an integrated way where this might reduce health inequalities."

Dear Sir/Madam

Notice of Variation to your Standard Alternative Provider Medical Services Contract dated []

We give you notice under Clause 57.2 of your alternative provider medical services contract dated [] that the terms of your contract are varied as set out below with effect from *[insert here date on which variations will take effect. Where reasonably practicable this should not be less than 14 days after the date on which this notice is served. This is a regulatory requirement.]*.

These variations are made to reflect changes introduced by the Health and Care Act 2022 and to comply with the Alternative Provider Medical Services Directions 2022, which came into force since the last update to the Standard Alternative Provider Medical Services Contract.

For the avoidance of doubt nothing in this notice shall affect accrued rights or liabilities up to the date of the variation.

We request you to acknowledge receipt of this notice by signing and returning the enclosed duplicate of it.

Dated:

Signed:

on behalf of [INSERT ICB NAME]

Print name:

Wording of Variations

General Variations

1. In the following provisions, **replace** all references to “the Commissioner” with “NHS England”:

1.1. Clause 10.5B.3;

1.2. Clause 13.3.2;

1.3. Clause 13.7A.1;

1.4. Clause 19.3.4;

1.5. Clause 24.2.3(ii);

1.6. Clause 25.2.3.3;

1.7. Clause 31.124B;

1.8. Clause 31.124C;

1.9. Clause 31.124D;

1.10. Clause 31.124F;

1.11. Clause 31.132D;

1.12. Clause 32.2.1;

1.13. Clause 34A.1;

1.14. Clause 34E.1.1;

1.15. Clause 36A.1;

1.16. Clause 49.2.10;

1.17. Clause 50.2;

1.18. Clause 55.2.1;

1.19. Clause 57A.1;

- 1.20. Clause 57A.2;
- 1.21. Clause 57A.4;
- 1.22. Clause 57A.5;
- 1.23. Clause 57A.6.1;
- 1.24. Clause 57A.6.3;
- 1.25. Clause 69.1;
- 1.26. In the following definitions in paragraph 1.2 of Schedule 1:
 - 1.26.1. “Chemist”;
 - 1.26.2. “the Detained Estate Healthcare Service”;
 - 1.26.3. “GP2GP Facility”;
 - 1.26.4. “Home Oxygen Order Form”;
 - 1.26.5. “Listed Medicines Voucher”;
 - 1.26.6. “Local Medical Committee”;
 - 1.26.7. “Medical Card”;
 - 1.26.8. “Medical Performers List”;
 - 1.26.9. “National Diabetes Audit”;
 - 1.26.10. “Non-Electronic Prescription Form”;
 - 1.26.11. “Prescription Form”;
 - 1.26.12. “Repeatable Prescription”;
 - 1.26.13. “Summary Care Record”;
- 1.27. Schedule 12.

2. In the following provisions, **replace** all references to “the Board” with “NHS England”:

2.1. Clause 3A.2.2.2;

2.2. Clause 3A.3.2.2;

2.3. Clause 3A.6.2.1;

3. **Replace** all other references to “the Board” with “the Commissioner”;

4. **Replace** all references to “CCG” with “Integrated Care Board”.

Clause 3

5. **Replace** Clause 3.2.2 with the following:

“3.2.2 the Patient is:

3.2.2.1 offered an appointment, for a time which is appropriate and reasonable having regard to all the circumstances, to attend the Contractor’s Practice Premises again or participate in a telephone consultation or Video Consultation; or

3.2.2.2 invited to make a request via an online consultation system, and the Patient’s health would not thereby be jeopardised.”;

6. After Clause 3.6.2, **insert** the following:

“3.8 Services: remote provision outside Practice Premises

3.8.1 Without prejudice to regulation 17(7) (essential services) of the General Medical Services Contracts Regulations (which forms part of the definition of Essential Services under this Contract), where applicable, the Contractor and any sub-contractor may provide a Remote Service from a location which does not constitute Practice Premises, if the requirements in Clause 3.8.2 are met.

3.8.2 The requirements referred to in Clause 3.8.1 are that:

- 3.8.2.1 the service is provided from an appropriate location;
 - 3.8.2.2 the service is provided through an appropriate digital or telecommunications method; and
 - 3.8.2.3 the service is appropriate for provision outside of Practice Premises.
- 3.8.3 For the purposes of Clause 3.8.2.1, a location is not appropriate if:
 - 3.8.3.1 the location or its environment is not conducive to ensuring the confidentiality of Patient information, in connection with the service to be provided from that location; or
 - 3.8.3.2 the location or its environment is not conducive to ensuring appropriate provision of the service from that location.
- 3.8.4 For the purposes of Clause 3.8.2.2, a digital or telecommunications method is appropriate if it meets:
 - 3.8.4.1 the requirements in the GPIT Operating Model relevant to that method, including any requirements as to software; or
 - 3.8.4.2 requirements which are equivalent in their effect to the relevant requirements in the GPIT Operating Model.
- 3.8.5 For the purposes of Clause 3.8.2.3, the service is not appropriate for provision outside of Practice Premises if:
 - 3.8.5.1 it would not be clinically appropriate for the Patient on that occasion; or
 - 3.8.5.2 it is otherwise not appropriate to the needs or circumstances of the Patient.
- 3.8.6 For the purposes of Clause 3.8.3.1, “Patient information” means information which relates to the physical or mental health or condition of a Patient, to the diagnosis of their condition, to their care and treatment, or information which is to any extent derived, directly or indirectly, from such information.”;

Clause 3A

7. After Clause 3A.2.2.4, **insert** the following:

“; and
3A.2.2.5 Integrated Care Boards.”;

Clause 10

8. In Clause 10.5.3(i), **replace** the reference to “Practice Premises” with “Practice”;

Clause 19

9. In Clause 19.6.1, **delete** the words “Non-Electronic”;

10. In Clause 19.7, **delete** the words “Non-Electronic”;

Clause 31.10

11. **Replace** Clause 31.10 with the following:

"Subject to Clause 31.11, an application for inclusion in the Contractor’s List of Patients may be made by the applicant or a person authorised by the applicant submitting a Medical Card or an application form, including an electronic application form, to the Contractor.”;

Clause 31.124

12. In Clause 31.124A, including all sub-Clauses, **replace** each reference to “practice premises” or “Practice Premises” with “Practice”;

Clause 32.4

13. **Replace** Clause 32.4.1 with the following:

“the computer system upon which the Contractor proposes to keep the records meets the requirements set out in the GPIT Operating Model;”;

14. In Clause 32.4.2, **replace** the words “as accredited in accordance with Clause 32.4.1” with the words “and compliant with the GPIT Operating Model”;

Clause 32.15A

15. In Clause 32.15A.1, replace the words “a minimum of 25% of its appointments per day during Core Hours” with the words “all of its Directly Bookable Appointments”;

Clause 32.20O

16. **Replace** Clause 32.20O.2 with the following:

“Not used.”;

Clause 35C

17. In Clause 35C.3.2, **delete** the words “Subject to sub-Clause 35C.3.2A,”;

18. In Clause 35C.3.2.1, **replace** the word “2020” with the word “2022”;

19. **Delete** Clause 35C.3.2A;

20. **Replace** Clause 35C.3.3.1 with the following:

“Not Used;”;

21. **Replace** Clause 35C.4 (including sub-clauses) with the following:

“For the purposes of sub-Clause 35C.3.1 “the Disclosure Date”, in relation to a Relevant Financial Year, is 30 April in the financial year which begins immediately after the end of the Next Financial Year.”;

22. In Clause 35C.8.2, replace the words “this Clause comes into force”, with the words “the term in Clause 35C.7 is incorporated into the Contract”;

23. In Clause 35C.9.1 **delete** the final word “and”;

24. In Clause 35C.9.2.1, after the words “in which I’s” **insert** the word “NHS”;

25. After Clause 35C.9.2.2, **insert** the following:

“and

35C.9.3 a term which requires S to use reasonable endeavours to ensure that any sub-contract entered into before the term in Clause 35C.9.2 was incorporated into that sub-contract is amended to:

35C.9.3.1 include a term in Clause 35C.9.2.1 in a sub-contract between S and I: and

35C.9.3.2 include the term in Clause 35C.9.2.2 in a sub-contract between S and a partnership.”;

Clause 35CA

26. After Clause 35C.11, **insert** the following:

“35CA **Disclosure of information about NHS earnings: jobholders**

35CA.1 In this Clause 35CA:

35CA.1.1 “Disclosure Obligation”, “Relevant Financial Year”, “Relevant Threshold”, “The Disclosure Date” and “Sub-Contractor” have the meanings given in Clause 35C;

35CA.1.2 “NHS Earnings” has the meaning given in Clause 35D.

35CA.2 In this Clause 35CA and, where applicable, in Clause 35D:

35CA.2.1 “Contract of Engagement” means a contract of employment or other agreement under which a jobholder is engaged;

35CA.2.2 “Jobholder” means:

- 35CA.2.2.1 an individual employed by a Relevant Person;
- 35CA.2.2.2 an individual engaged by a Relevant Person under a contract for services to provide services which enable the Relevant Person to fulfil its obligations under the Contract or sub-contract, as the case may be;
- 35CA.2.2.3 an individual engaged by a Third Party to provide clinical services;
- 35CA.2.2.4 where the Relevant Person is a company, a director or company secretary of that company;
- 35CA.2.3 “Relevant Person” means:
 - 35CA.2.3.1 the Contractor;
 - 35CA.2.3.2 a Sub-Contractor;
 - 35CA.2.3.3 any onward sub-contractor;
- 35CA.2.4 “Third Party Contract” means a contract or other agreement under which a Relevant Person is provided with a Jobholder to provide clinical services under the Contract or sub- contract, as the case may be, and which is between:
 - 35CA.2.4.1 the Contractor and a person other than a Jobholder or Sub-Contractor;
 - 35CA.2.4.2 a Sub-Contractor and a person other than a Jobholder, the Contractor, or a person (“P”) to whom the Sub-Contractor has further sub-contracted obligations to; or
 - 35CA.2.4.3 p and a person other than a Jobholder or Sub-Contractor;
- 35CA.2.5 “Third Party” is to be construed in accordance with the definition of “Third Party Contract”.

- 35CA.3 The Contractor shall not enter into a Contract of Engagement unless it requires the Jobholder to comply with the Disclosure Obligation for each Relevant Financial Year in which the Jobholder's NHS Earnings exceed the Relevant Threshold.
- 35CA.4 The Contractor shall not sub-contract any of its obligations to provide clinical services under the Contract unless:
- 35CA.4.1 the sub-contract entered into by the Contractor requires the Sub-Contractor ("S") to:
- 35CA.4.1.1 include the term specified in Clause 35CA.6 in any Contract of Engagement S enters into with a Jobholder on or after entering into the sub-contract; and
- 35CA.4.1.2 use reasonable endeavours to include that term in any Contract of Engagement which S has entered into prior to entering into the sub-contract; and
- 35CA.4.2 The sub-contract prevents S from sub-contracting to P any of the clinical services S has agreed with the Contractor to provide under the sub-contract unless the sub-contract S enters into with P includes the term specified in paragraph Clause 35CA.5.
- 35CA.5 The term requires P to:
- 35CA.5.1 include the term specified in Clause 35CA.6 in any Contract of Engagement which P enters into with a Jobholder on or after entering into the sub-contract with S; and
- 35CA.5.2 use reasonable endeavours to include that term in any Contract of Engagement which P has entered into prior to entering into that sub-contract.
- 35CA.6 The term requires the Jobholder to comply with the Disclosure Obligation for each Relevant Financial Year in which the Jobholder's NHS Earnings exceed the Relevant Threshold.

- 35CA.7 The Contractor shall use reasonable endeavours to ensure that any Contract of Engagement, which the Contractor entered into before the term in Clause 35CA.3 was incorporated into the Contract is amended to include the term specified in Clause 35CA.6.
- 35CA.8 The Contractor shall use reasonable endeavours to ensure that any sub-contract which the Contractor entered into before the term in Clause 35CA.4 was incorporated into the Contract is amended to include the terms specified in Clause 35CA.9.
- 35CA.9 The terms are:
- 35CA.9.1 a term which requires S to:
 - 35CA.9.1.1 include the term specified in Clause 35CA.6 in any Contract of Engagement S enters into with a Jobholder on or after the amendment of the sub-contract;
 - 35CA.9.1.2 use reasonable endeavours to include the term specified in Clause 35CA.6 in any Contract of Engagement which S entered into before the amendment of the sub-contract; and
 - 35CA.9.1.3 use reasonable endeavours to include the term specified in Clause 35CA.5 in any sub-contract which S has entered into with P before the amendment of the sub-contract pursuant to paragraph Clause 35CA.8); and
 - 35CA.9.2 a term which prevents S from sub-contracting to P obligations to provide clinical services under the Contract unless the sub-contract entered into by S includes the term specified in paragraph Clause 35CA.5.
- 35CA.10 The Contractor shall use reasonable endeavours to include in a Third Party Contract (whenever entered into) a term requiring the Third Party ("T") to include the term specified in Clause 35CA.6 in any Contract of Engagement to which T is a party.

- 35CA.11 The Contractor shall not sub-contract any of its obligations to provide clinical services under the Contract, unless the sub-contract requires S to use reasonable endeavours to:
- 35CA.11.1 include in a Third Party Contract (whenever entered into) a term requiring T to include the term specified in Clause 35CA.6 in any Contract of Engagement to which T is a party; and
 - 35CA.11 include in any sub-contract between S and P a term requiring P to include in any Third Party Contract (whenever entered into) the term specified in Clause 35CA.12.
- 35CA.12 The term is one which requires T to include the term specified in Clause 35CA.6 in any Contract of Engagement to which T is a party.
- 35CA.13 Nothing in this Clause 35CA requires a jobholder to comply with the disclosure obligation for any relevant financial year which:
- 35CA.13.1 ends before the Jobholder enters into a Contract of Engagement; or
 - 35CA.13.2 begins after the Jobholder's Contract of Engagement has terminated.”;

Clause 35D

27. In the heading of Clause 35D and in Clause 35D.1, replace references to “Clause 35C” with “Clauses 35C and 35CA”;

28. In Clause 35D.3.2.2, before the words “income (including any form” insert the word “other”;

29. After Clause 35D.3.2.2, insert the following:

“35D.3.2A in relation to a Jobholder who does not fall within Clause 35D.3.2.1 or Clause 35D.3.2.2, means:

35D.3.2A.1 any remuneration, salary, wages, fees, director's remuneration or dividends received in respect of

the financial year in question under the Contract of Engagement and any other Contract of Engagement under which the Jobholder provides services in respect of a contract or an agreement for primary medical services made under section 92 or 83(2) of the Act; and

35D.3.2A.2 any other income which would be treated as practitioner income under Schedule 10 to the NHS Pension Scheme Regulations as modified in accordance with Clause 35D.4 in respect of the Financial Year in question if the Jobholder:

35D.3.2A.2.1 were an active member of the scheme; and

35D.3.2A.2.2 a medical practitioner or non-GP provider;”;

30. In Clause 34D.4.1 **insert** the word “and” at the end;

31. In Clause 34D.4.2 **delete** the final word “and”;

32. **Replace** Clause 35D.4.3 with the following:

“Not Used.”;

33. After Clause 35D.4.3, **insert** the following:

“35D.4A For the purposes of this Clause 35D, where the Contractor has sub-contracted any obligations under the Contract, any payments made:

35D.4A.1 under the sub-contract; or

35D.4A.2 under any onward sub-contract which the Sub-Contractor has entered into with another person;

are to be treated as income derived from the Contract.”;

Clause 74

34. Replace Clause 74.2 with the following:

“Not used”;

35. Replace Clause 74.3 with the following:

“Not used”;

Schedule 1

36. After Paragraph 1.1.11, **insert** the following:

“1.1.12 Where under section 65Z5 of the 2006 Act a relevant body (as defined therein) has arranged for functions exercisable by it to be exercised by or jointly with one or more other bodies, a reference to that relevant body shall, as the context requires, include a reference to the body or bodies exercising the functions in question (and vice versa).”;

37. In Paragraph 1.2,

37.1. **Delete** the following definitions:

“**CCG**”;

“**NHSTDA**”;

37.2. In the definition of “Clinical Correspondence”, before the words “patient attendance and treatment”, **insert** the words “the provision of a Remote Service or”;

37.3. **Insert** the following definitions:

“**Directly Bookable Appointment**”

means an appointment of a type which, in line with the guidance entitled “Directly bookable appointments — guidance for practices” issued by

NHS England, is available for booking by a Registered Patient or an appropriate person on their behalf”;

“GPIT Operating Model’

means the document entitled “Securing Excellence in Primary Care (GP) Digital Services: The Primary Care (GP) Digital Services Operating Model 2021-23 V5” issued by NHS England”;

“Integrated Care Board’

an integrated care board established under Chapter A3 of Part 2 of the 2006 Act”;

“NHS England’

the body corporate established under section 1H of the 2006 Act”;

“Remote Service’

means:

- (a) an online consultation under Clause 32.20L;
- (b) a secure electronic communication under Clause 32.20M;
- (c) a Video Consultation under Clause 32.20N;
- (d) a telephone consultation;
- (e) an Electronic Prescription;
- (f) any other service which can be provided through a digital or telecommunications method, including administrative tasks in support of the Contract”;

Schedule 10

38. In Paragraph 3.1, replace the word “NHSTDA” with the words “NHS England”;

Schedule 11

39. In the Outcomes Framework table, **delete** the words “Clinical domain” in row 2 of the table, and “MH005” and the corresponding Indicator Description in the row 14 of the table.

I/We [] acknowledge receipt of the notice of variation dated [] of which the above is a duplicate. I/We acknowledge that this notice will take effect from [].

Signed:

[on behalf of]:

Print name:

Date:

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This publication can be made available in a number of alternative formats on request.