**DIRECTIONS**

**NATIONAL HEALTH SERVICE, ENGLAND AND WALES**

The Healthy Start Directions to the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) 2021

The Secretary of State for Health and Social Care gives the following Directions in exercise of the powers conferred by sections 7, 8, 272(7) and (8) of the National Health Service Act 2006([[1]](#footnote-1))and section 13(7) and (8) of the Social Security Act 1988([[2]](#footnote-2)).

**Application, commencement and interpretation**

1. ­- (1) These Directions may be cited as the Healthy Start Directions to the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) 2021.

1. These Directions apply to England and Wales and come into force on 1st November 2021.
2. In these Directions—

“an accepted claim” means any claim accepted by the Secretary of State as having satisfied Schedule 2 to the principal Regulations before the date that these Directions come into force.

“the Authority” means the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) established by the NHS Business Services Authority (Establishment and Constitution) Order 2005([[3]](#footnote-3));

 “beneficiary” means a person entitled to benefit pursuant to regulations 3 and 4 of the principal Regulations;

“child” means a person under the age of 16;

“family” has the meaning given by section 137(1) of the Social Security Contributions and Benefits Act 1992([[4]](#footnote-4)) for the purposes of Part 7 of the Act (income-related benefits);

 “Healthy Start food” means the food prescribed at regulation 5 of the principal Regulations;

“Healthy Start legislation” means all applicable laws and regulations relating to the administration of the Healthy Start Scheme (as amended from time to time);

“the Healthy Start Scheme” means the scheme established by the principal Regulations and set out in the Healthy Start legislation;

 “Healthy Start vitamins” means the vitamins specified in regulation 5A of the principal Regulations;

“parental responsibility” in England and Wales has the same meaning as in section 3(1) of the Children Act 1989([[5]](#footnote-5));

 “the DHSC” means the Department of Health and Social Care;

“the principal Regulations” means the Healthy Start Scheme and Welfare Food (Amendment) Regulations 2005([[6]](#footnote-6))[;](https://www.legislation.gov.uk/uksi/2005/3262/contents/made)

“voucher” is to be construed in accordance with regulation 8 of the principal Regulations.

“UK GDPR” means the European Union General Data Protection Regulation ([[7]](#footnote-7)), as implemented in the UK by the Data Protection Act 2018([[8]](#footnote-8)) and amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.)(EU Exit) Regulations 2019([[9]](#footnote-9)) and the Data Protection, Privacy and Electronic Communications (Amendments etc.)(EU Exit) Regulations 2020([[10]](#footnote-10)).

**Healthy Start Scheme**

2. - (1) The Secretary of State directs the Authority to exercise the functions of the Secretary of State in relation to the operation and the administration of the Healthy Start Scheme and the provision of Healthy Start vitamins, pursuant to regulation 7A(2)(c) of the principal Regulations, and in particular to—

(a) work with the Secretary of State to ensure that appropriate agreements and arrangements are put in place between the Authority and the Secretary of State detailing the administration and operation of the Scheme, including specifications, key performance indicators and funding arrangements;

(b) establish and operate a system for the collection and analysis of information from beneficiaries and other government departments to the extent necessary for it to provide confirmation of a person’s entitlement to benefits under the Healthy Start Scheme;

(c) develop and operate information and communication systems to operate the Healthy Start Scheme;

(d) make arrangements to receive and process information from applications to the Healthy Start Scheme;

(e) accept, consider and decide applications made by individuals under the Healthy Start Scheme;

(f) apply eligibility criteria to determine applications for the Healthy Start Scheme;

(g) inform applicants to the Scheme of the Authority’s decisions under the Scheme;

(h) make arrangements for the provision of vouchers or credit under the Healthy Start Scheme comprising the amount of benefit due to—

1. a person who is entitled to receive the benefit under the Healthy Start Scheme, or
2. a person who has parental responsibility for a child.

(i) pay the beneficiary an amount equal to the value represented by the voucher or credit she/he would otherwise receive in accordance with regulation 5 of the principal Regulations;

(j) provide a beneficiary with payment or voucher in circumstances where the beneficiary has failed to receive a benefit and meets the criteria set out in regulation 10(2) of the principal Regulations;

(k) exercise the functions of the Secretary of State and the existing functions of the Authority to administer the scheme in relation to the provision of Healthy Start Vitamins as set out in regulation 7A(1), (2)(a)(ii) and (2)(a) and (b) of the principal Regulations, regulation 5 of the Welfare Food Regulations 1996([[11]](#footnote-11)), and regulations 5A and 8A of the principal Regulations with particular regard to sections 8A(6), (7), (8) and (9);

(l) together with the Secretary of State, provide advice on health and nutrition pursuant to regulation 6 of the principal Regulations.

1. The reference to—

(a) “person entitled to receive the benefit”” in sub-paragraph (1)(h) relates to a person who satisfies criteria agreed by the Secretary of State and prescribed in regulations 2 and 3 of the principal Regulations;

(b) “comprising the amount” in sub-paragraph (1)(h) is to the amount of benefit agreed by the Secretary of State and provided for under regulation 8 of the principal Regulations;

( c) “exercise the functions of the Secretarty of State” in sub-paragraph (1)(k) excludes the power to amend or modify the voucher value pursuant to regulation 8(4) to (6) of the principal Regulations.

3. - (1) In exercising the activities in this Direction and functions in paragraph 2, the Authority must act in

 accordance with this paragraph.

 (2) The Authority must have regard to such policies, advice or guidance of the Secretary of State as the

 Secretary of State may notify in writing to the Authority.

 (3) The Authority must seek such appropriate and timely legal advice in connection with—

(a) the administration or operation of the Healthy Start Scheme, including the interpretation of the legislation and procedures relating to the administration of the Healthy Start Scheme; and

(b) the conduct of litigation whether actual or threatened.

1. The Authority must notify the Secretary of State forthwith of any matter (including actual or threatened litigation) in relation to the Heathy Start Scheme which may—

(a) challenge or cast doubt upon the existing legislation, its interpretation or application; or

(b) raise issues of financial or public policy in relation to the Healthy Start Scheme.

1. Where the Authority notifies the Secretary of State of a matter in accordance with sub-paragraph (3) it must—

(a) consult with the Secretary of State about the conduct of the matter; and

(b) ensure that the Secretary of State is kept informed of developments in and the progress of the matter.

1. Upon request by the Secretary of State, the Authority must provide advice to the Secretary of State in relation to any matter concerning the Healthy Start Scheme including in particular, actual or threatened litigation or where issues of public policy or finance may arise.

4. - (1) The Authority must keep and maintain records of—

(a) all applications for benefit under the Healthy Start Scheme; and

(b) all children and beneficiaries in receipt of benefits under the Healthy Start Scheme.

1. The Authority is responsible for the operation and the administration of the Healthy Start Scheme in accordance with these Directions.
2. In accordance with the applicable laws, the Authority may use any data it holds to advance the exercise of the functions referred to in sub-paragraph (2), including to support more effective planning and improvements to health and social care services, the care of beneficiaries, together with relevant NHS and Social Work Bursaries recipients  and to help to identify and address health inequalities by ensuring people receive the benefits they are entitled to.
3. The processing of personal data and special category data by the Authority is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller pursuant to article 6(1)(e) of the UK GDPR and for purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and protection law pursuant to article 9(1)(b) of the UK GDPR namely to assess and respond to claims for assistance pursuant to section 13(4) of the Social Security Act 1988.
4. The Authority must—

(a) provide annually to the Secretary of State and Welsh Ministers a written report on the operation of and the benefits paid under the Healthy Start Scheme, on a date specified jointly by them; and

(b) work and liaise with the DHSC as appropriate.

**Review, revocation and suspension of these Directions**

5. - (1) The Secretary of State may review these Directions as considered appropriate.

1. The Authority must operate the scheme and undertake the functions referred to above (the ‘Directed Functions’) unless and until—
	1. these Directions are revoked by a further direction, or
	2. the Authority is instructed in writing by an officer of the DHSC authorised by the Secretary of State, giving reasonable notice to suspend or permanently cease a Directed Function.

**Transitional Provisions for Existing Claims**

6. - (1) The Authority must take reasonable steps to ensure that—

(a) any parties affected by the transfer of the Scheme to the Authority are accordingly informed of the Authority’s new functions in the Healthy Start Scheme, of these Directions, and their effect; and

(b) any provisions for continuity are implemented as soon as practicable after these Directions come into force.

1. Claims to entitlement to benefit under the Scheme accepted prior to these Directions coming into force are to be determined by the Secretary of State.
2. Cases that are already under investigation or subject to legal proceedings before these Directions

come into force are to be investigated and proceeded against by the Secretary of State.

Signed by authority of the Secretary of State for Health and Social Care



*Date: 01 November 2021*

*Name: Kevin Dodds*

*Deputy Director, Healthy Weight and Nutrition*

A member of the Senior Civil Service

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1. () 2006 c. 41; section 7 was substituted by section 21(2), (3) and (4) of the Health and Social Care Act 2012 c. 7 (‘the 2012 Act’); section 8 was moved under a new heading by Schedule 4 (1) paragraph 5(3) of the 2012 Act. [↑](#footnote-ref-1)
2. () 1988 c. 7; substituted subject to savings specified in S.I. 2005/2279 article 2 by section 185(1) of the Health and Social Care (Community Health and Standards) Act 2003 c. 43, subject to savings for the effects of The Health and Social Care (Community Health Standards) Act 2003 (Savings) Order 2005, S.I. 2005/2279, article 2. [↑](#footnote-ref-2)
3. () S.I. 2005/2414, as amended by S.I. 2006/632, 2007/1201, 2013/235, 2015/1862 and 2017/959. [↑](#footnote-ref-3)
4. () 1992 c. 4; as substituted by Schedule 24(3), paragraph 46(2) of the Civil Partnership Act 2004 c. 33. [↑](#footnote-ref-4)
5. () 1989 c. 41. [↑](#footnote-ref-5)
6. () S.I. 2005/3262. [↑](#footnote-ref-6)
7. () OJ No. L 119, 4.05.2016, page 1. [↑](#footnote-ref-7)
8. () 2018 c. 12. [↑](#footnote-ref-8)
9. () S.I. 2019/419. [↑](#footnote-ref-9)
10. () S.I. 2020/ 1586. [↑](#footnote-ref-10)
11. () S.I. 1996/1434; revoked subject to savings specified in regulation 11(6) of the Healthy Start Scheme and Welfare Food (Amendment No. 2) Regulations S.I. 2006/2818, by regulation 11(7)(d) of S.I. 2006/ 2818. [↑](#footnote-ref-11)