2009/10 CERTIFICATE - FREQUENTLY ASKED QUESTIONS

GENERAL

Q. What is the deadline for completing the 2009/10 Certificate?

A. The deadline for completing the 2009/10 Certificate and sending it to the host PCT/LHB is the 28th of February 2011.

Q. Is the deadline a strict deadline?

A. Yes, the statutory NHS Pension Scheme Regulations state that the Certificate must be sent to the Provider's PCT/LHB within one calendar month of the tax return deadline.

Q. Where should the Certificate be sent?

A. To the Provider's host/commissioning PCT or LHB.

Q. What is a host PCT/LHB?

A. The host PCT/LHB in respect of a GP Provider is the commissioning PCT so may not be the PCT/LHB on whose Performers List the GP Provider is registered with. A GP Provider who is involved in more than one Practice may have more than one host PCT/LHB.

In respect of a non-GP Provider the host PCT/LHB is always the one they hold a GMS/PMS/APMS contract with; i.e. the commissioning PCT/LHB.

Q. Why do I have to complete the Certificate on an annual basis?

A. A Provider's pensionable pay is based on their NHS income, less expenses. Therefore the only way to measure a Provider's pensionable pay is for them to complete an individual Certificate.

Q. I have retired from my Provider post; do I still have to complete the Certificate?

A. Yes, although you may no longer be an active Scheme member you must complete the Certificate in respect of the year(s) that you were a 'pensionable' Provider

You may also complete the Certificate <u>solely</u> for the purposes of establishing the seniority allowance even if you were not an active Scheme member in 2009/10.

Q. What happens if I don't complete the Certificate?

A. It is a mandatory requirement of NHS Pension Scheme membership that Providers must complete the Certificate. Those who do not are in breach of the NHS Pension Scheme Regulations and the SFE (Statement of Financial Entitlement) both of which are statutory legislation. Not completing the Certificate may have a detrimental effect on your (and your dependents) NHS pension benefits and seniority allowance. The SFE also states that the monthly global sum payments may be withheld if a Provider fails to complete the Certificate.

Q. I am a fixed share Partner; do I still complete the Certificate?

A. Yes. The Scheme Regulations state that <u>every</u> Provider must complete the Certificate; there are no exceptions. Remember that any 'fixed share' is in effect a share of the Practice profits. Whatever figure is agreed must take into account that the Practice will have to pay the employer contributions which are an expense.

Fixed share Partners should not be deemed just to be allocated either pensionable or nonpensionable income. They should calculate their percentage share of the overall Practice profit based upon their fixed share and, for the purposes of the Certificate, use this percentage to allocate themselves NHS income, non-NHS income, and expenses from the Practice.

Q. My accounting year-end is 5 April. This falls after the NHS Pension Year of 31 March in a fiscal year. Do I still include my tax return entries on the certificate for a period that finishes 5 days earlier?

A. 31 March is the NHS Pension Scheme 'year end' corresponding to the tax 'year end'. Whilst the tax year finishes on 5 April each year, the NHS Pension Scheme 'year end' finishes on 31 March each year. To all intents and purposes, the '5 day' difference between these dates can be ignored. This prevents anomalous treatment whereby an accounting year ended 5 April 2010 falls into the tax year 2009/10, but not into the NHS Pension Scheme year ended 31 March 2010. Because an accounts year ended 5 April falls into the tax year, this will also be deemed to fall into the Pension Scheme year. The golden rule is that the tax return entries form the basis of the pensionable pay.

Q. I am a non-GP Provider; do I still complete the Certificate?

A. Yes. Every non-GP Provider must complete the Certificate annually. As non-GP Providers are afforded 'whole time Officer' status regardless of the hours they work they can only be 'pensionable' in one post and therefore may only be required to complete one Certificate. By virtue that non-GP Providers are classed as whole-time means they must decide, after seeking expert advice, which of their NHS posts should be pensionable.

Q. I am a GP Provider (i.e. Partner) in two or more separate Practices; do I need to complete two Certificates?

A. Yes, even if the Practices are located within the same PCT/LHB boundary.

Q. I am a GP Provider in both APMS and GMS/PMS; do I need to complete two Certificates?

A. Yes, even if the organisations are located within the same PCT/LHB boundary. Each contract will have it's own 'ring fenced' budget, expenses ratio, and set of individuals acting as Providers. Also the contract may also be with various PCTs/LHBs.

Q. I am a GP Provider; do I have to complete more than one Certificate if I had more than one host PCT or LHB in the same year?

A. If you relocated during the year then you must complete a Certificate in respect of each Practice. However, if your host PCT/LHB changed due to a PCT/LHB merger (but you did not change Practices) only one Certificate is required. If you moved from England or Wales to Scotland or Northern Ireland you will need to complete one Certificate in respect of England/Wales and another in respect of Scotland or Northern Ireland.

Q. In 2009/10 I was Salaried GP (i.e. a Performer) directly employed (i.e. schedule E) by a Practice, PCT, LHB, or SPMS/APMS Provider; do I have to complete a Certificate?

A. If you were both a Salaried GP and a GP Provider you are legally required to complete a Type 2 Practitioner's self-assessment form for pensions year 2009/10. This is to ensure that you have paid tiered contributions at the correct rate.

Q. What does 'pensioned separately' on the main Certificate mean?

A. This will be income that has already been pensioned elsewhere in the NHS, i.e. contributions will have already been deducted. For example if a GP works for a hospital and is paid a salary, the GP will have already paid pension contributions on this income at source. GP SOLO income is <u>not</u> regarded as 'pensioned separately' income for the purposes of this Certificate and must be declared in the relevant boxes in the Certificate.

Q. Why is there the calculation of profits x 100/114?

A. It is important that in the calculation of NHS pensionable pay the employer's pension contributions, that are included in the GMS global sum or the PMS baseline contract price, are excluded. Otherwise, the Provider would illegally be getting pension benefits based on NHS Pension Scheme employer contributions.

Q. What do I do if I am subject to 'pensions overlap'?

- A. You should seek assistance from an accountant; please refer to separate 'overlap' guidance.
- Q. I understand that the profits to be declared are based on the accounting year, and my Practice makes accounts up to 30 June each year. I have two objections to this, firstly, the profits will be lower than that for the following year ending 31 March, and it seems so much more complicated. Why can't I just prorate the profits by taking three months of the year ended 30 June 2009 and nine months of the next year to give me twelve months covering the 31 March?
- A. The reasoning behind using the accounting year profits (adjusted for tax purposes) is to facilitate some objectivity and ratification by comparing the figures from the GPs tax return to the Certificate of pensionable profits. Yes, while profits are rising the profits declared for a year to 30 June will be less than 31 March, but if profits fall, the converse will be true. Over a long period, the effect on a GPs pension in unlikely to be significant.

Q. Why are seniority payments declared in the Certificate and what if seniority payments are pooled?

A. The SFE stipulates that the seniority allowance must be declared on the Certificate however it is accepted that the figure stated may be provisional; the guidance note to box 38a provides more information.

Q. Should seniority payments be grossed up for the employer's pension contributions?

A. No. The purpose of including the figure is just to enable the PCT/LHB to establish whether the appropriate level of seniority has been paid, after taking into account the earnings criteria.

Q. What is a NHS Pension Scheme Employing Authority (EA)?

A. A Scheme Employing Authority, for the purposes of 'pensioning' GPs NHS income, is a PCT, LHB, GP Practice, and any APMS/sPMS contractor or OOHP with EA status.

Q. Not all OOHPs are Scheme Employing Authorities, how will I know which are?

A. Please refer to Annex B that lists Out of Hours Providers with EA status.

Q. What legislative requirement is placed upon a PCT/LHB in respect of validating the Certificate?

A. The NHSPS Regulations place no specific legal requirement to validate <u>all</u> the figures declared on the Certificate. Therefore the declaration that PCTs/LHBs are required to sign is worded in such a way that recognizes that some of the income declared on the Certificate will have come from other sources.

Q. Where should the Certificate be sent after it has been validated by the PCT/LHB?

A. The PCT/LHB should keep the Certificate. The GP (or their accountant) should keep a copy.

Q. Should an SD86 still be sent to the GP?

A. There is no legal requirement to send out an SD86, it is up to the PCT/LHB.

Q. What about the SOLO income as declared on the Certificate when the Practice year-end is not 31 March?

A. A PCT/LHB should record the estimated pensionable profit and the contributions collected in the month they were collected and the contributions must be paid over to the NHS Pensions Division by the 19th of the following month. SOLO income should be recorded in the month the payment relates. It is therefore very important that SOLO information including the relevant contributions is supplied quickly and regularly to the PCT/LHB that is responsible for the pension records. Payments made monthly in arrears should be accounted for as creditors in the Practice accounts. Sticking to this administration principle and process, means that GPs, accountants and the PCT/LHB are aware of where earnings are being recorded on the NHAIS Exeter Computer System. This will also allow the use of <u>annual</u> SOLO returns covering the period 1st April to 31st March.

For a Practice with an accounts year-end of 31 March, a reconciliation of the Certificate with the monthly estimates, SOLO forms and balance can be made.

Some GPs may have SOLO income that is not accounted for to 31 March. The figures at boxes 32 and 35 of the Certificate may not therefore match the total of the SOLO income for the year ended 31 March shown on the PCTs/LHBs Exeter system. This is fine. It is NOT the PCTs/LHBs role to consider the SOLO income figures in boxes 32 and 35 of the Certificate in these circumstances. The PCT/LHB should, however, ensure that the figures entered on the Certificate in boxes 52 to 55 for SOLO contributions paid and recorded in the year ended 31 March DO match those on the Exeter system.

Where, however, the SOLO income is accounted for to 31 March, the entries at boxes 32 and 35 of the Certificate should match the SOLO income entries on the Exeter system, just as the entries in boxes 52 to 55 should match should match the Exeter system. Where they do not, the PCT/LHB are entitled to query this with the GP/accountant.

SCHEME CONTRIBUTIONS

Q. How are a Provider's tiered contributions assessed in 2009/10?

A. They are based upon their <u>total</u> aggregated (i.e. global) Practitioner (GP) pensionable pay in 2009/10. The tiered rates for GPs for 2009/10 are as follows.

5%Up to £20,709.996.5%£20,710.00 to £68,392.997.5%£68,393.00 to £107,846.998.5%£107,847.00 +

NHS Pensions' Technical Newsletter (TN) 4/2009 provides more detailed guidance.

Q. Who is responsible for the payment of any arrears of NHS Pension Scheme Practice based contributions?

A. In GMS the Practice, rather than the individual GP (or non-GP) Provider, is responsible for paying arrears of contributions immediately. If the Practice is not pro-active the host PCT/LHB is within its rights to recover any arrears from future payments it makes to the Practice. If the Provider has left or retired it is the Practice who is still responsible for paying arrears. GP (and non-GP) Providers should seek expert advice from an accountant with experience in GP finances in respect of paying arrears and the 'knock on' effect on tax relief/NI. In PMS much depends on the PMS (and partnership) agreements.

Q. What happens if I have not paid the correct rate of tiered contributions in respect of my SOLO work (i.e. OOHs).

A. Your tiered contribution rate is based on your global GP pensionable income; not just your SOLO income. Therefore if you have paid contributions at the incorrect tiered rate in respect of SOLO income you must liaise with the relevant 'SOLO employer' in order to pay the correct rate. If this is not possible you may pay the arrears through the Certificate.

Q. What happens if contributions have been overpaid because a Provider's NHS pensionable pay was over estimated?

A. The host PCT/LHB must repay the overpaid contributions to the Practice without delay.

NHS PENSIONABLE INCOME & ADDED YEARS

Q. What is classed as GP Provider NHS pensionable pay in 2009/10?

A. Please see Annex A below.

Q. Does a GP have to 'pension' all of their NHS GP work?

A. Yes, they must 'pension' all their NHS GP (Practitioner) income and cannot opt out of 'pensioning' certain parts of it. They can opt out of pensioning salaried Officer posts such as hospital based clinical assistant or community posts however cannot opt out of pensioning bed fund posts.

Q. I am a GP Provider, can I pension income as a GP Provider in my own Practice earned from working for another Practice that I may (or may not) be involved in as a Partner or shareholder?

A. No. This is strictly forbidden under the NHS Pension Scheme Regulations.

Q. I am a GP Provider; can I work as a GP Locum in my own Practice or Practices?

A. No. You cannot 'pension' income as a GP Locum in a Practice where you are a Provider, even if you are a part-time Provider. This is strictly forbidden under the NHS Pension Scheme Regulations.

Q. I am a GP Provider, can I work as a GP Locum in other Practices?

 Yes, under certain circumstances. Please refer to TN 8/2009, (<u>http://www.nhsbsa.nhs.uk/Pensions/2496.aspx</u>). You must record your
GP Locum work on forms A and B. More information can be found on NHS Pensions' website.

Q. I am a PMS Provider and the PCT/LHB are still paying the employer's 14% directly, therefore by multiplying my profits by 100/114 I am excessively reducing my pensionable profit figure, what should I do?

A. It is unusual for the contract price to exclude the employer contributions however if it does (and the PCT/LHB has paid the 14%) you must find out from them the amount to ensure your pensionable profits are not adversely reduced. It is best to seek expert professional advice from an accountant.

Q. Is Practice Based Commissioning (PBC) income pensionable?

A. If the PBC income is paid **directly** to a GMS/PMS Practice by a PCT/LHB then, yes, it is pensionable net of expenses. However if PBC income is paid to a GP or GMS/PMS Practice by a PBC consortium/collaborative it is NOT pensionable.

If a GP or GMS/PMS Practice receives PBC income from a PCT/LHB and then passes it onto another GP that 'another GP' CANNOT pension their PBC income.

Q. Is medical school income pensionable?

 A. No. Although some medical schools are granted special Scheme 'Direction' status, any fees paid to a GP (or Practice) by a medical school are not 'pensionable'. Generally only salaried TUPE'd employees of an open 'Directions body' may join the Scheme.

Q. Is prison work pensionable?

A. Yes, however only if the fees are being paid <u>directly</u> to the GP/Practice by the PCT/LHB.

Q. If VAT is included on the SOLO form is it pensionable?

- A. No, there are no provisions to 'pension' VAT under the NHS Pension Scheme Regulations
- Q. How should PEC income be recorded?

A. All GPs (except GP Locums) must 'pension' their PEC income.

GP Providers can elect to either SOLO or pool their PEC income. If they elect to SOLO their PEC income the relevant PEC employer (i.e. PCT/LHB) will deduct contributions at source and forward these to the host PCT/LHB. If the PEC employer has also deducted tax and national insurance at source the GP should ensure that they are not liable to pay these again.

If the GP has elected to pool their PEC income (i.e. paid directly into the Practice account to be shared) they must ensure that the fee takes account of employer contributions as ultimately the GP/Practice will be responsible for forwarding these to the host PCT/LHB.

PCTs/LHBs <u>must not</u> set up a unique pensionable employment in respect of fee based PEC work; this is in accordance with The NHS Pension Scheme Regulations and Health Service Circular 2000/005 (issued by the Dept of Health in March 2000).

Q. Is QOF income still pensionable if I pass on some of it to my staff?

A. No. If a Provider decides to pass on some of their QOF income to their Practice Staff or to Salaried GPs as a reward/bonus it <u>cannot</u> be regarded as pensionable income.

Q. What is deemed pensionable sick pay?

A. GPs who suffer a genuine loss of pensionable income as a result of illness may qualify for deemed pensionable sick pay to be credited to their pension records; they should contact NHS Pensions for advice. Evidence may be asked for to demonstrate a genuine loss of pensionable income.

Deemed pensionable sick pay is not recorded on the Certificate.

Q. Where can I find more information about the new Additional Pension?

A. On NHS Pensions website; http://www.nhsbsa.nhs.uk/Pensions/calculators.aspx.

Q. How do I know if I am, or ever was, subject to the pensionable earnings cap?

A. You should seek expert advice. If you first joined the NHSPS after 01/06/89, or before 01/06/89 but had a break at some time after, you are likely to be capped.

Q. I joined the Scheme after 1 April 1989 and understand that my GP pensionable pay is no longer capped. Won't that mean that I'll have a large underpayment of contributions for 2009/10?

A. Not necessarily. You should have agreed with the PCT in 208 to adjust the amount of contributions being deducted from your GMS/PMS contract payments throughout the year to allow for a higher liability for contributions. If this was not done, there may be a significant shortfall of contributions payable.

Q. I was previously subject to the earnings cap; how does this affect me in 200910?

A. Since April 2008 the cap no longer applies in respect of mainstream NHS pensionable income.

However, if you took out an added years contract prior to 1 April 2008, and your mainstream income was previously capped before that date, your added years percentage will still be applied to a capped amount of income (\pounds 123,600 for 2009/10).

ANNEX A

GP Providers Pensionable Pay

GP Providers (i.e. type1/Principal Practitioners) pensionable income is listed below and is subject to the payments being net of expenses. The fees must be in respect of NHS primary medical services and be paid <u>directly</u> to the GP (or Practice) by a PCT, a LHB, or Out of Hours Provider (that qualifies as a NHSPS Employing Authority). GP Providers must 'pension' income in respect of the following;

Additional services

Adoption and fostering work (Collaborative services)

APMS (Alternative Provider of Medical Services: Technical Newsletter 6/2007 refers).

Appraisal work

Blue (disabled) badge scheme (Collaborative services)

Board and advisory work (non-clinical work and includes Primary Care Trust Executive Committee (PEC) work.

Case conference and other meetings arranged by Social Services (Collaborative services)

Certificates to enable chronically disabled/blind persons to obtain telephones (Collaborative services)

Certification services

Collaborative services (in accordance with section 26(4) of the 1977 Health Act)

Commissioned services

Contact price (PMS)

Dispensing

Dispensing services (i.e. the provision of drugs, medicines, and appliances).

Educating medical students or GPs in a Practice (The fees must come directly from the PCT/LHB and not a medical school or university)

Enhanced services (direct, local, or national)

Essential services

Family planning (Commissioned services)

Food poisoning notifications (Commissioned services)

General/Personal Dental Services

General Ophthalmic Services

Global sum (GMS)

GMS

GP Locum work (This work must always be recorded on GP Locum forms A, & B which can be downloaded from the NHS Pensions website. It must never be recorded on form SOLO or paid (as pooled pensionable income) into the Practice accounts. A GP Provider cannot record GP work as GP Locum work in their own Practice)

GPsWSI (GPs with special interests) work (Commissioned services)

IT

Lecture fees (Commissioned services)

Marriage difficulty sessions (Commissioned services)

Medical certificates (as listed in the GMS Contracts Regulations)

Out Of Hours work for a PCT, LHB, Trust, or an OOHP that is an Employing Authority.

PCT sessions (Commissioned services)

PCO administered funds

PEC

PMS

Practice Based Commissioning (PBC) (Only if paid **direct** to a GP, or GMS/PMS Practice, by a PCT/LHB)

Premises (i.e. notional rent)

Priority housing reports requested by local authorities, (Collaborative services)

Prisoners healthcare (Fees in respect of a prisoner's healthcare are pensionable subject to the PCT/LHB paying the fees directly to the GP/Practice)

QOF (quality and outcome framework)

'Section 12' or mental health work (Collaborative services)

Seniority payments

Sessional work commissioned by family planning clinics (Collaborative services)

Social services reports (Collaborative services)

SPMS (Specialist Personal Medical Services: Technical Newsletter 6/2007 refers)

(NB: GPs must 'pension' all of their Practitioner (GP) NHS income)

GP Providers Income That Is Not Pensionable

Fees paid to a GP (or Practice) by a LMC, a medical school, a NHS Pension Scheme 'Direction Body' (i.e. a hospice), the police, the DWP, a Local Authority, the Ministry of Defence, or by the NHS Pensions Division (in respect of NHS ill health pension or Injury Benefit Scheme medical reports) are not pensionable.

Fees paid to a GP in respect of the national 'Drug Intervention Programme' and private fees (i.e. travel vaccination fees not funded by the NHS) are not pensionable.

Fees paid to a GP by a hospital under a 'honorary contract' or under a service level agreement are not generally pensionable however contact NHS Pensions for further guidance.

Funds that a Practice may inherit from another business, by virtue of acquiring that business, and that are drawn down later as a salary or dividends are not pensionable in the NHS Pension Scheme.

Non GP Providers Pensionable Pay

A non GP Provider (i.e. Partner, Single-Hander, or shareholder who is not a GP) is classed as whole time Officer for NHS Pension Scheme purposes. Their NHS pensionable pay is their share of the GMS/PMS/SPMS/APMS Practice NHS profits less expenses. This will include pensionable income in respect of 'ad hoc' GP work that any GP Partners have elected to 'pool'.

Non GP Providers can only 'pension' income from one Practice/Centre

ANNEX B

Out of Hours Providers that were NHS Pension Scheme Employing Authorities (EAs) during 200910.

Badger Healthcare Ltd EA status: 01/09/2009 (EA Code: W229)

Banes Emergency Medical Services EA status: 01/10/05 (EA Code: W314)

BEDOC (Bedford On Call) EA status: 01/08/2004 (EA Code: W206)

Birmingham & District GP Emergency Room Ltd EA status: 01/04/05 (EA Code: W215)

BRISDOC Healthcare Services Ltd EA status:01/07/05 (EA Code: W316)

CAMIDOC Ltd: Ceased trading in September 2010 EA status: 01/04/05 (EA Code: W214)

Cambridgeshire Doctors On Call Ltd EA status: 01/10/04 (EA Code: W222)

Central Notts Clinical Services Ltd EA status: 06/12/04 (EA Code: W204)

Chorley Medics Ltd EA status: 01/10/04 (EA Code: W110)

CUEDOC Ltd EA status:01/04/04 (EA Code: W101)

Derbyshire Health United Ltd EA status: 20/10/06 (EA Code: W225)

Devon Doctors Ltd EA status: 01/10/04 (EA Code: W303)

East Berkshire Primary Care OOHs Services EA status: 01/10/04 (EA Code: W306)

East Lancs Medical Services Ltd EA status: 01/10/2009 (EA Code: W117)

EDICS Ltd EA status: 01/08/2005 (EA Code: W315)

FRENDOC Ltd EA status: 31/10/04 (EA Code: W312)

Fylde Coast Medical Services (NW) Ltd EA status: 01/04/05 (EA Code: W103)

Gateshead Doctors On Call EA status: 01/04/07 (EA Code: W116) GOTODOC Ltd EA status: 01/12/04 (EA Code: W106)

Halton Health Ltd EA status:01/04/09 (EA Code: W317)

Herts Urgent Care Ltd EA status: 01/09/08 (EA Code: W227)

Invicta Health Community Interest Company EA status: 01/05/2009 (EA Code: W318)

KEYDOC Ltd EA status: 01/01/05 (EA Code: W203)

Local Care Direct EA status: 01/10/04 (EA Code: W112)

London Central West Unscheduled Care Collaborative EA status: 01/07/05 (EA Code: W213)

M-DOC LTD EA status: 01/07/04 (EA Code: W208)

Mastercall OOHs Services EA status: 01/04/05 (EA Code: W108)

NEMS Community Benefits Service Ltd EA status: 01/10/04 (EA Code: W202)

NENEDOC Ltd EA status: 01/08/04 (EA code W203)

North Bristol Doctors Ltd EA status: 01/11/04 (EA Code: W309)

North Hants Urgent Care EA status: Oct 2006 (EA Code: W304)

North Staffs Urgent Care Ltd EA status: 01/04/04 (EA Code: W200)

Northern Doctors Urgent Care Ltd EA status: 01/09/04 (EA Code: W104)

Out of Hours West Lancashire Ltd EA status: 01/04/04 (EA Code: W102)

Partnership Of East London Co-Operatives (PELC) Ltd EA status: 01/12/04 (EA Code: W216)

Principal Medical Ltd EA status: 01/04/07 (EA Code: W226)

SAGPEC Ltd EA status: 01/04/05 (EA Code: W111)

Shropshire Doctors' Co-operative Ltd

EA status: 01/10/04 (EA Code: W201)

SOUTH DOC Services Ltd EA status: 01/10/04 (EA Code: W223)

South East Health Ltd (EA Code: W313)

Southport & Formby Out of Hours Centre Ltd EA status: 01/04/04 (EA Code: W100)

St Helens Rota EA status: 01/04/06 (EA Code: W115)

Suffolk Doctors On Call Ltd EA status: 01/10/04 (EA Code: W217)

Swansea OOHs Services Ltd EA status: 01/10/04 (EA Code: W205)

THAMESDOC

EA status: 01/04/05 (EA Code: W311)

Urgent Care Ltd (Social Enterprise) EA status: 01/05/09 (EA Code: W228)

Urgent Care 24 Ltd EA status: 01/11/04 (EA Code: W113)

WALDOC Community Benefit Society EA status: 01/12/04 (EA Code: W211)

Wolverhampton Doctors On Call

EA status: 01/04/06 (EA Code: W224)