

WG21 – 72

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

**The Wales Infected Blood Support
Scheme (Amendment) (No. 2)
Directions 2021**

Made

13 August 2021

*Coming into force in accordance with
paragraph 1(2), (3) and (4)*

The Welsh Ministers give the following Directions in exercise of the powers conferred by sections 19(1), 203(9) and (10) and 204(1) of the National Health Service (Wales) Act 2006⁽¹⁾.

PART 1

General

Title, commencement and application

1.—(1) The title of these Directions is the Wales Infected Blood Support Scheme (Amendment) (No. 2) Directions 2021.

(2) Subject to sub-paragraphs (3) and (4), these Directions come into force on 16 August 2021.

(3) The amendments in paragraph 6 have effect from 1 April 2019.

(4) The amendments in paragraphs 7, 8 and 9 have effect from 1 April 2021.

(5) These Directions are given to Velindre University NHS Trust⁽²⁾.

(1) 2006 c. 42.

(2) Velindre University NHS Trust was established by Velindre National Health Service Trust (Establishment) Order 1993 (S.I. 1993/2838), amended by S.I. 2017/912 (W. 223) and S.I. 2018/887 (W. 176); there are other amending instruments but none is relevant to these Directions.

PART 2

Miscellaneous Amendments

Amendments to the Wales Infected Blood Support Scheme (No. 2) Directions 2017

2. The Wales Infected Blood Support Scheme (No. 2) Directions 2017⁽¹⁾ are amended as follows.

Amendments to paragraph 2 (interpretation)

3. In paragraph 2 (interpretation)—

- (a) for the definition of “the Agreement” substitute—

““the Agreement” (“*y Cytundeb*”) means the Memorandum of Understanding for the Management and Administration of the Wales Infected Blood Support Scheme made between the Welsh Ministers and Velindre NHS Trust on 4 May 2021 as from time to time amended;”;
- (b) in the definition of “annual entitlement”, in paragraph (b), after “dies” insert—

“,

as set out in Schedule 7”;
- (c) in the definition of “the Bereavement Payment”, for “direction 5(1)” substitute “paragraph 5(1)”.

Miscellaneous amendments

4.—(1) In paragraph 4 (payments to Qualifying Persons)—

- (a) after sub-paragraph (d) omit “and”;
- (b) after sub-paragraph (e) insert—

“(f) Schedule 6 for backdated payments;
and
(g) Schedule 7 for a Qualifying Person’s annual entitlement.”

(2) In sub-paragraph (5) of paragraph 5 (bereaved spouses and partners), for “paragraph (1)” substitute “sub-paragraph (1)”.

(3) In paragraph 6 (dependent children)—

- (a) in sub-paragraph (1)—

(1) Amended by the Wales Infected Blood Support Scheme (Amendment) Directions 2018, the Wales Infected Blood Support Scheme (Amendment) Directions 2019, the Wales Infected Blood Support Scheme (Amendment) Directions 2020 and the Wales Infected Blood Support Scheme (Amendment) Directions 2021.

- (i) for “direction 5(1)” substitute “paragraph 5(1)”;
- (ii) for “direction 5(2) or (3)” substitute “paragraph 5(2) or (3)”;
- (b) in sub-paragraph (2), for “paragraph (1)” substitute “sub-paragraph (1)”.
- (4) In paragraph 6A (the Estate), for “direction 5(1)” substitute “paragraph 5(1)”.

Appeals

5. After paragraph 6A (the Estate) insert—

“Appeals

6B.—(1) Where a person makes an application for payment under this Scheme to Velindre NHS Trust (“the applicant”) and that payment is refused, Velindre NHS Trust must give written notice of that refusal to the applicant, including its reasons for refusal.

(2) The applicant may appeal a decision of Velindre NHS Trust notified in accordance with sub-paragraph (1) by sending written notice of the appeal to Velindre NHS Trust.

(3) An appeal under sub-paragraph (2) must be made within 3 months of the date of issue of the notice referred to in sub-paragraph (1).

(4) An appeal made otherwise than in accordance with the time limit in sub-paragraph (3) may be accepted if Velindre NHS Trust considers there are reasonable grounds for the delay.

(5) Velindre NHS Trust must establish a panel of persons (“the panel”) who have not had a role in determining the application that is the subject of an appeal to consider an appeal made under sub-paragraph (2).

(6) Where the panel established under sub-paragraph (5) refuses an appeal in whole or in part, Velindre NHS Trust must provide the applicant with a written notice of the decision, including a summary of the panel’s reasons for refusing the appeal.

(7) Where the panel established under sub-paragraph (5) upholds an appeal, in whole or in part, Velindre NHS Trust must provide the applicant with written notice of this and, in appropriate cases, confirmation that for those purposes, the applicant is to be treated as though they joined the Scheme on the date that their application for payment was received by Velindre NHS Trust.”

PART 3

Amendments to Payment Amounts

Annual Bereavement Payments

6. In paragraph 5 (bereaved spouses and partners)—

(a) for sub-paragraph (2) substitute—

“(2) Subject to sub-paragraph (3), in addition to the Bereavement Payment, where a Qualifying Person dies, their surviving spouse or partner is entitled to—

(a) a payment equal to that Qualifying Person’s annual entitlement, referable to the calendar year following the date of death; and

(b) an annual payment equal to 75% of that Qualifying Person’s annual entitlement in each year following the year of death,

which may be paid in monthly payments.”;

(b) for sub-paragraph (3) substitute—

“(3) Where the Qualifying Person’s death occurred on or before 31 March 2019, their surviving spouse or partner is entitled to an annual payment equal to 75% of that Qualifying Person’s annual entitlement in each year following the later of—

(a) the calendar year in which the surviving spouse or partner received the last payment that they would have been entitled to under paragraph 5(2), as in force immediately before 1 April 2019, or

(b) the third calendar year following the date of death.”;

(c) omit sub-paragraph (4).

Amendments to annual payments for the financial year 2021 - 2022

7.—(1) In paragraph 1 of Schedule 1 (Qualifying Persons with hepatitis C – Stage I)—

(a) in sub-paragraph (a), for “£4,833” substitute “£18,912”;

(b) in sub-paragraph (b), for “£19,344” substitute “£28,680”.

(2) In paragraph 1 of Schedule 2 (Qualifying Persons with hepatitis C – Stage II), for “£19,344” substitute “£28,680”.

(3) In paragraph 1 of Schedule 3 (Qualifying Persons with HIV), for “£19,344” substitute “£28,680”.

(4) In Schedule 4 (Qualifying Persons with hepatitis C and HIV)—

- (a) in paragraph 1—
 - (i) in sub-paragraph (a), for “£23,527” substitute “£38,928”;
 - (ii) in sub-paragraph (b), for “£38,166” substitute “£45,072”;
- (b) in paragraph 2, for “£38,166” substitute “£45,072”.

Amendments to one-off lump sum payments from the financial year 2021 - 2022

8.—(1) In paragraph 2 of Schedule 1 (Qualifying Persons with hepatitis C – Stage I), for “£20,000” substitute “£50,000”.

(2) In Schedule 2 (Qualifying Persons with hepatitis C – Stage II)—

- (a) in paragraph 2, for “£50,000” substitute “£70,000”;
- (b) after paragraph 2 insert—

“**3.** A one-off lump sum payment of £20,000 may be made to a Qualifying Person with hepatitis C – Stage I who becomes a Qualifying Person with hepatitis C – Stage II.”

(3) In paragraph 2 of Schedule 3 (Qualifying Persons with HIV), for “£20,000” substitute “£80,500”.

(4) In Schedule 4 (Qualifying Persons with hepatitis C and HIV)—

- (a) in paragraph 3, for “£40,000” substitute “£130,500”;
- (b) in paragraph 4, for “£70,000” substitute “£150,500”;
- (c) after paragraph 4 insert—

“**4A.** A one-off lump sum payment of £20,000 may be made to a Qualifying Person with hepatitis C – Stage I and HIV who becomes a Qualifying Person with hepatitis C – Stage II and HIV.”

Winter fuel payments

9.—(1) In Schedule 1 (Qualifying Persons with hepatitis C – Stage I), after paragraph 3 insert—

“**4.** A payment of an additional amount of £544, designated as a winter fuel payment, may be made to Qualifying Persons with hepatitis C – Stage I in each financial year.”

(2) In Schedule 2 (Qualifying Persons with hepatitis C – Stage II), after paragraph 3 insert—

“4. A payment of an additional amount of £544, designated as a winter fuel payment, may be made to Qualifying Persons with hepatitis C – Stage II in each financial year.”

(3) In Schedule 3 (Qualifying Persons with HIV), after paragraph 2 insert—

“3. A payment of an additional amount of £544, designated as a winter fuel payment, may be made to Qualifying Persons with HIV in each financial year.”

(4) In Schedule 4 (Qualifying Persons with hepatitis C and HIV), after paragraph 4A insert—

“4B. A payment of an additional amount of £544, designated as a winter fuel payment, may be made to Qualifying Persons with hepatitis C and HIV in each financial year.

4C. A Qualifying Person who is eligible for a payment under paragraph 4B of this Schedule cannot claim a winter fuel payment for the same financial year under paragraph 4 of Schedule 1, paragraph 4 of Schedule 2 or paragraph 3 of Schedule 3.”

Backdated payments

10.—(1) Omit paragraph 8 (entitlement to a backdated enhanced payment for the financial year 2018 – 2019).

(2) After paragraph 6B (appeals) insert—

“Provision for backdated payments

6C. Schedule 6 makes provision for backdated payments.

Annual entitlement

6D. Schedule 7 makes provision for a Qualifying Person’s annual entitlement”

(3) After Schedule 5 (other payments) insert—

“SCHEDULE 6 Paragraph 6C

Backdated Payments

Entitlement to a backdated annual payment for Qualifying Persons with hepatitis C – Stage I for the financial year 2019- 2020

1.—(1) This paragraph applies where a Qualifying Person had hepatitis C - Stage I during the financial year 2019 - 2020 and was entitled to receive a payment under paragraph

1(a) of Schedule 1, as in force immediately before 1 April 2020, during that period.

(2) A payment of £18,458 for the financial year 2019 - 2020, minus any amount already paid under paragraph 1(a) of Schedule 1, as in force immediately before 1 April 2020, during that financial year, may be paid to the Qualifying Person or, in the case of a Qualifying Person who has died, may be allocated in accordance with the distribution of the Qualifying Person's estate.

Entitlement to a backdated annual payment for Qualifying Persons with hepatitis C – Stage I (enhanced) for the financial year 2019 - 2020

2.—(1) This paragraph applies where a Qualifying Person had hepatitis C - Stage I (enhanced) during the financial year 2019 - 2020 and was entitled to receive a payment under paragraph 1(b) of Schedule 1, as in force immediately before 1 April 2020, during that period.

(2) A payment of £28,000 for the financial year 2019 - 2020, minus any amount already paid under paragraph 1(b) of Schedule 1, as in force immediately before 1 April 2020, during that financial year, may be paid to the Qualifying Person or, in the case of a Qualifying Person who has died, may be allocated in accordance with the distribution of the Qualifying Person's estate.

Entitlement to a backdated annual payment for Qualifying Persons with hepatitis C – Stage II for the financial year 2019- 2020

3.—(1) This paragraph applies where a Qualifying Person had hepatitis C - Stage II during the financial year 2019 - 2020 and was entitled to receive a payment under paragraph 1 of Schedule 2, as in force immediately before 1 April 2020, during that period.

(2) A payment of £28,000 for the financial year 2019 - 2020, minus any amount already paid under paragraph 1 of Schedule 2, as in force immediately before 1 April 2020, during that financial year, may be paid to the Qualifying Person or, in the case of a Qualifying Person who has died, may be allocated in accordance with the distribution of the Qualifying Person's estate.

Entitlement to a backdated annual payment for Qualifying Persons with HIV for the financial year 2019 - 2020

4.—(1) This paragraph applies where a Qualifying Person had HIV during the financial year 2019 - 2020 and was entitled to receive a payment under paragraph 1 of Schedule 3, as in force immediately before 1 April 2020, during that period.

(2) A payment of £28,000 for the financial year 2019 - 2020, minus any amount already paid under paragraph 1 of Schedule 3, as in force immediately before 1 April 2020, during that financial year, may be paid to the Qualifying Person or, in the case of a Qualifying Person who has died, may be allocated in accordance with the distribution of the Qualifying Person's estate.

Entitlement to a backdated annual payment for Qualifying Persons with hepatitis C and HIV for the financial year 2019 - 2020

5.—(1) Sub-paragraph (2) applies where a Qualifying Person had hepatitis C – Stage I and HIV during the financial year 2019 - 2020 and was entitled to receive a payment under paragraph 1(a) of Schedule 4, as in force immediately before 1 April 2020, during that period.

(2) A payment of £38,000 for the financial year 2019 - 2020, minus any amount already paid under paragraph 1(a) of Schedule 4, as in force immediately before 1 April 2020, during that financial year, may be paid to the Qualifying Person or, in the case of a Qualifying Person who has died, may be allocated in accordance with the distribution of the Qualifying Person's estate.

(3) Sub-paragraph (4) applies where a Qualifying Person had hepatitis C – Stage I (enhanced) and HIV during the financial year 2019 - 2020 and was entitled to receive a payment under paragraph 1(b) of Schedule 4, as in force immediately before 1 April 2020, during that period.

(4) A payment of £44,000 for the financial year 2019 - 2020, minus any amount already paid under paragraph 1(b) of Schedule 4, as in force immediately before 1 April 2020, during that financial year, may be paid to the Qualifying Person or, in the case of a Qualifying Person who has died, may be allocated in accordance with the distribution of the Qualifying Person's estate.

(5) Sub-paragraph (6) applies where a Qualifying Person had hepatitis C – Stage II and HIV during the financial year 2019 - 2020 and was entitled to receive a payment under paragraph 2 of Schedule 4, as in force immediately before 1 April 2020, during that period.

(6) A payment of £44,000 for the financial year 2019 - 2020, minus any amount already paid under paragraph 2 of Schedule 4, as in force immediately before 1 April 2020, during that financial year, may be paid to the Qualifying Person or, in the case of a Qualifying Person who has died, may be allocated in accordance with the distribution of the Qualifying Person's estate.

Entitlement to a backdated annual payment for Qualifying Persons with hepatitis C – Stage I for the financial year 2020 - 2021

6.—(1) This paragraph applies where a Qualifying Person had hepatitis C - Stage I during the financial year 2020 - 2021 and was entitled to receive a payment under paragraph 1(a) of Schedule 1, as in force immediately before 1 April 2021, during that period.

(2) A payment of £18,772 for the financial year 2020 - 2021, minus any amount already paid under paragraph 1(a) of Schedule 1, as in force immediately before 1 April 2021, during that financial year, may be paid to the Qualifying Person or, in the case of a Qualifying Person who has died, may be allocated in accordance with the distribution of the Qualifying Person's estate.

Entitlement to a backdated annual payment for Qualifying Persons with hepatitis C – Stage I (enhanced) for the financial year 2020 - 2021

7.—(1) This paragraph applies where a Qualifying Person had hepatitis C - Stage I (enhanced) during the financial year 2020 - 2021 and was entitled to receive a payment under paragraph 1(b) of Schedule 1, as in force immediately before 1 April 2021, during that period.

(2) A payment of £28,476 for the financial year 2020 - 2021, minus any amount already paid under paragraph 1(b) of Schedule 1, as in force immediately before 1 April 2021, during that financial year, may be paid to the Qualifying Person or, in the case of a Qualifying Person who has died, may be

allocated in accordance with the distribution of the Qualifying Person's estate.

Entitlement to a backdated annual payment for Qualifying Persons with hepatitis C – Stage II for the financial year 2020 - 2021

8.—(1) This paragraph applies where a Qualifying Person had hepatitis C - Stage II during the financial year 2020 - 2021 and was entitled to receive a payment under paragraph 1 of Schedule 2, as in force immediately before 1 April 2021, during that period.

(2) A payment of £28,476 for the financial year 2020 - 2021, minus any amount already paid under paragraph 1 of Schedule 2, as in force immediately before 1 April 2021, during that financial year, may be paid to the Qualifying Person or, in the case of a Qualifying Person who has died, may be allocated in accordance with the distribution of the Qualifying Person's estate.

Entitlement to a backdated annual payment for Qualifying Persons with HIV for the financial year 2020 - 2021

9.—(1) This paragraph applies where a Qualifying Person had HIV during the financial year 2020 - 2021 and was entitled to receive a payment under paragraph 1 of Schedule 3, as in force immediately before 1 April 2021, during that period.

(2) A payment of £28,476 for the financial year 2020 - 2021, minus any amount already paid under paragraph 1 of Schedule 3, as in force immediately before 1 April 2020, during that financial year, may be paid to the Qualifying Person or, in the case of a Qualifying Person who has died, may be allocated in accordance with the distribution of the Qualifying Person's estate.

Entitlement to a backdated annual payment for Qualifying Persons with hepatitis C and HIV for the financial year 2020 - 2021

10.—(1) Sub-paragraph (2) applies where a Qualifying Person had hepatitis C – Stage I and HIV during the financial year 2020 - 2021 and was entitled to receive a payment under paragraph 1(a) of Schedule 4, as in force immediately before 1 April 2021, during that period.

(2) A payment of £38,646 for the financial year 2020 - 2021, minus any amount already

paid under paragraph 1(a) of Schedule 4, as in force immediately before 1 April 2020, during that financial year, may be paid to the Qualifying Person or, in the case of a Qualifying Person who has died, may be allocated in accordance with the distribution of the Qualifying Person's estate.

(3) Sub-paragraph (4) applies where a Qualifying Person had hepatitis C – Stage I (enhanced) and HIV during the financial year 2020 - 2021 and was entitled to receive a payment under paragraph 1(b) of Schedule 4, as in force immediately before 1 April 2021, during that period.

(4) A payment of £44,748 for the financial year 2020 - 2021, minus any amount already paid under paragraph 1(b) of Schedule 4, as in force immediately before 1 April 2020, during that financial year, may be paid to the Qualifying Person or, in the case of a Qualifying Person who has died, may be allocated in accordance with the distribution of the Qualifying Person's estate.

(5) Sub-paragraph (6) applies where a Qualifying Person had hepatitis C – Stage II and HIV during the financial year 2020 - 2021 and was entitled to receive a payment under paragraph 2 of Schedule 4, as in force immediately before 1 April 2021, during that period.

(6) A payment of £44,748 for the financial year 2020 - 2021, minus any amount already paid under paragraph 2 of Schedule 4, as in force immediately before 1 April 2020, during that financial year, may be paid to the Qualifying Person or, in the case of a Qualifying Person who has died, may be allocated in accordance with the distribution of the Qualifying Person's estate.

Entitlement to a backdated one-off lump sum payment for Qualifying Persons with hepatitis C – Stage I

11.—(1) This paragraph applies where, during the period from 1 April 2017 to 31 March 2021 a Qualifying Person—

- (a) was a New Qualifying Person;
- (b) had hepatitis C – Stage I; and
- (c) was entitled to receive a one-off lump sum payment under paragraph 2 of Schedule 1, as in force during that period.

(2) Subject to sub-paragraph (3), a one-off lump sum payment of £50,000, minus any

amount already paid under paragraph 2 of Schedule 1, may be paid to the Qualifying Person or, in the case of a Qualifying Person who has died, may be allocated in accordance with the distribution of the Qualifying Person's estate.

(3) Where a Qualifying Person described in sub-paragraph (1) became a Qualifying Person with hepatitis C – Stage II during the period from 1 April 2017 to 31 March 2021 and received a payment under paragraph 2 of Schedule 2, as in force during that period, they are not entitled to the one-off lump sum payment under sub-paragraph (2).

Entitlement to a backdated one-off lump sum payment for Qualifying Persons with hepatitis C and HIV

12.—(1) This paragraph applies where, during the period from 1 April 2017 to 31 March 2021 a Qualifying Person—

- (a) was a New Qualifying Person;
- (b) had hepatitis C – Stage I and HIV; and
- (c) was entitled to receive a one-off lump sum payment under paragraph 3 of Schedule 4, as in force during that period.

(2) Subject to sub-paragraph (3), a one-off lump sum payment of £130,500, minus any amount already paid under paragraph 3 of Schedule 4 may be paid to the Qualifying Person or, in the case of a Qualifying Person who has died, may be allocated in accordance with the distribution of the Qualifying Person's estate.

(3) Where a Qualifying Person described in sub-paragraph (1) became a Qualifying Person with hepatitis C – Stage II and HIV during the period from 1 April 2017 to 31 March 2021 and received a payment under paragraph 4 of Schedule 4, as in force during that period, they are not entitled to the one-off lump sum payment under sub-paragraph (2).

Entitlement to a backdated aggregate payment for bereaved spouses and partners and dependent children of Qualifying Persons who have died prior to the financial year 2019 - 2020

13.—(1) This paragraph applies where a Qualifying Person died on or before 31 March 2019 and a surviving spouse, partner, or dependent child was entitled to receive a

payment under paragraph 5(2) or 6(1) of these Directions, as in force immediately before 1 April 2019.

(2) An annual payment equal to 75% of that Qualifying Person's annual entitlement for three calendar years following the date of death, minus any amount already paid under paragraph 5(2) or 6(1) of these Directions, as in force immediately before 1 April 2019, may be paid by way of a one-off lump sum to—

- (a) the surviving spouse or partner, or
- (b) each dependent child in equal shares where the Qualifying Person had no surviving spouse or partner at the time of their death, or
- (c) the Qualifying Person's estate where the Qualifying Person had no surviving spouse or partner and no dependent children at the time of their death.

SCHEDULE 7 Paragraph 6D

Annual Entitlement

1. For the purposes of these Directions and the provision for backdated payments in paragraph 6C (provision for backdated payments) and Schedule 6 (backdated payments), the annual entitlement for—

- (a) a Qualifying Person with hepatitis C - Stage I—
 - (i) for the financial year 2021 – 2022, is £18,912;
 - (ii) for the financial year 2020 – 2021, is £18,772;
 - (iii) for the financial year 2019 – 2020, is £18,458;
- (b) a Qualifying Person with hepatitis C – Stage I (enhanced)—
 - (i) for the financial year 2021 – 2022, is £28,680;
 - (ii) for the financial year 2020 – 2021, is £28,476;
 - (iii) for the financial year 2019 – 2020, is £28,000;
- (c) a Qualifying Person with hepatitis C - Stage II—
 - (i) for the financial year 2021 – 2022, is £28,680;
 - (ii) for the financial year 2020 – 2021, is £28,476;

- (iii) for the financial year 2019 – 2020, is £28,000;
- (d) a Qualifying Person with HIV—
 - (i) for the financial year 2021 – 2022, is £28,680;
 - (ii) for the financial year 2020 – 2021, is £28,476;
 - (iii) for the financial year 2019 – 2020, is £28,000;
- (e) a Qualifying Person with hepatitis C – Stage I and HIV—
 - (i) for the financial year 2021 – 2022, is £38,928;
 - (ii) for the financial year 2020 – 2021, is £38,646;
 - (iii) for the financial year 2019 – 2020, is £38,000;
- (f) a Qualifying Person with hepatitis C – Stage I (enhanced) and HIV—
 - (i) for the financial year 2021 – 2022, is £45,072;
 - (ii) for the financial year 2020 – 2021, is £44,748;
 - (iii) for the financial year 2019 – 2020, is £44,000;
- (g) a Qualifying Person with hepatitis C – Stage II and HIV—
 - (i) for the financial year 2021 – 2022, is £45,072;
 - (ii) for the financial year 2020 – 2021, is £44,748;
 - (iii) for the financial year 2019 – 2020, is £44,000.”

Professor Chris Jones

Deputy Chief Medical Officer, Welsh Government,
under the authority of the Minister for Health and
Social Services, one of the Welsh Ministers

Date 13 August 2021