

Health and Social Services Committee

HSS (2)-14-06(p3)

Meeting date: Wednesday 11 October 2006

Venue: Committee Room 1, Senedd, National Assembly for Wales

Title: The Healthy Start and Scheme (Description of Healthy Start Food) (Wales) Regulations 2006

Purpose

To seek the Committee's views on the draft Healthy Start Scheme (Description of Healthy Start Food) (Wales) Regulations 2006.

Summary

The draft Healthy Start Scheme (Description of Healthy Start Food) (Wales) Regulations 2006 will enable Wales to specify the range of Healthy Start Foods and Vitamins that will be available under the Healthy Start Scheme in Wales. Section 185(6) of the Health and Social Care (Community Health and Standards) Act 2003 provides that power to prescribe the descriptions of food is to be exercised in relation to the operation of a Scheme in Wales by Regulations made by the Assembly.

Background

The Welsh Assembly Government manages the Welfare Food Scheme in Wales and will manage, when it is introduced in November, the Healthy Start Scheme in Wales. However, responsibility and accountability for the existing Welfare Food Scheme and the soon to be introduced Healthy Start Scheme rests with the Department of Health.

The Healthy Start Scheme is being rolled out across the UK on the 27 November 2006 to replace the existing Welfare Food Scheme (WFS), first brought in as a war time measure in 1940 to protect the health of young children during times of rationing.

Under the existing Welfare Food Scheme pregnant women and families in receipt of certain qualifying benefits are eligible for tokens that can be exchanged for liquid cow's milk and once the baby is born tokens are exchangeable for infant formula and vitamins in NHS clinics and designated outlets.

The first scientific review of the WFS since its inception in 1940 was undertaken in 1999 by the Panel on Maternal and Child Nutrition of the Committee on the Medical Aspects of Food and Nutrition Policy (COMA). COMA concluded that whilst the WFS retained great potential for improving the health of nutritionally vulnerable pregnant women, mothers and young children, there were significant flaws within it. The review said that it:

- Did not meet the wider nutritional needs of pregnant women and young children, who would benefit from a wider choice of foods to help address health inequalities;
- is a disincentive to breastfeeding;
- provides up to twice as much infant formula as 6-12 month olds need;
- may provide too much milk for 1-5 year olds; and
- did not effectively promote awareness or uptake of free vitamin supplements.

As a result of the COMA review the Government committed to reforming the WFS within existing budgets to reflect the review's recommendations.

Plans to reform the scheme were consulted on a UK wide basis by the Department of Health in October 2002. Over 500 written responses were received, a summary of these responses, which indicated overwhelming support for the need for reform was published in March 2003 and can be viewed at (www.dh.gov.uk).

In the Health and Social Care (Community Health and Standards) Act 2003 the Secretary of State sought, and received, powers that would enable him to revise and modernise the Welfare Food Scheme. The regulation making powers which enable the establishment of the Healthy Start Scheme rest wholly with the Secretary of State apart from the power in section 185(6) of the Act which allows the Assembly to specify the range of Healthy Start Foods and Vitamins that will be available under the Scheme in Wales. An undertaking was given during the passage of the Bill that, at least initially, the Assembly would specify the same foods as England.

On 27 November 2005, the Healthy Start Scheme and Welfare Food (Amendment) Regulations came into force. The key purpose of the 2005 Regulations was to introduce Healthy Start vouchers to Devon and Cornwall for a period of evaluation and testing in advance of their launch nation wide (Phase 1 of the Healthy Start Implementation). The Welfare Food Scheme under the Welfare Food Scheme Regulations 1996 remained in force across the rest of Great Britain.

Under the new Healthy Start Scheme those who qualify will receive a fixed faced value Healthy Start Voucher worth £2.80 that can be exchanged for liquid cow's milk, infant formula milk and fresh fruit and vegetables. Beneficiaries also receive free vitamin supplements.

Under Healthy Start:

- If you're pregnant, you get one voucher a week worth £2.80
- For each baby under the age of one, the family gets two vouchers a week worth a total of £5.60
- For each child aged over one and under four, the family gets one voucher a week worth £2.80.

The vouchers will be exchangeable at a large range of retail outlets. All outlets that sell any of the Healthy Start foods are eligible to apply to participate in the scheme. The scheme offers much more flexibility and choice, supports breastfeeding, and encourages early and closer contact between health professionals and families from disadvantaged groups.

You qualify for Healthy Start if you are pregnant or have a child under 4 years of age and if the following applies:

- You or your family get Income Support, or
- You or your family get Income-Based Jobseekers Allowance, or
- You or your family get Child Tax Credit and have an annual income less than £14, 555, or
- You are pregnant and under 18 years of age.

A rapid evaluation of Phase 1 undertaken by the Department of Health highlighted that overall, Healthy Start has been effectively implemented from the perspective of beneficiaries, health professionals and retailers.

The Department of Health intends to make and lay regulations for the implementation of Phase 2 of the Healthy Start Scheme in October 2006 to come into force on the 27 November 2006. Specifically they build on the Healthy Start Scheme and Welfare Foods (Amendment) Regulations 2005 by extending Healthy Start Scheme across Great Britain. They also amend and reduce the upper age limit for qualifying children to receive vouchers from the 5th birthday to the 4th birthday.

Consultation

There has been no formal consultation in relation to these Regulations. However, before the Healthy Start Scheme and Welfare Food (Amendment) Regulations 2005 were made in England, the Department of Health held a UK wide consultation, which included the description of healthy start foods to be made available under the Scheme. An agreement was made during the passage of the Health and Social Care (Community Health and Standards) Act 2003, to initially prescribe the same foods in Wales as the other UK territorial countries. Therefore, further consultation was not considered necessary. Also, plans to reform the scheme were subject to a UK wide consultation by the Department of Health in October 2002. Over 500 written responses were received, a summary of these responses, which indicated overwhelming support for the need for reform was published in March 2003 and can be viewed at (www.dh.gov.uk).

Financial Implications

There are no financial implications associated with these draft regulations. NHSF Division have seen and noted the contents of this committee paper. There are no financial implications in drafting the regulations. The costs will be accommodated within administration costs budgets. The Welfare Food Scheme is a totally demand led budget administered by DOH. The budget allocation for Wales in 2005/06 and 2006/07 is £9 million.

Timetable for Implementation

Following the Health and Social Services Committee's consideration of the Regulations, it is planned for them to be considered by the Business Committee on the 7 November and the Legislation Committee on the 14 November. The Regulations are due to come into force on the 27 November 2006.

Action for Subject Committee

The Committee is invited to discuss this paper and scrutinise the draft regulations.

Brian Gibbons

Minister for Health and Social Services

Contact Point: Claire Bond, Children's Health Branch,

Children's Health and Social Services Directorate 029 2082 5667

To Business Committee

From Brian Gibbons AM

Minister for Health and Social Services

Explanatory Memorandum

The Healthy Start Scheme (Description Of Healthy Start Food) (Wales) Regulations 2006

Summary

These Regulations will enable Wales to specify the range of Healthy Start foods that will be available under the Healthy Start Scheme in Wales.

This Memorandum is submitted to the Assembly's Business Committee in relation to The Healthy Start Scheme (Description of Healthy Start Food) (Wales) Regulations 2006, in accordance with Standing Order 24.6.

A copy of the Instrument is submitted with this Memorandum.

Enabling Power

The power enabling this Instrument to be made is contained in section 185 (6) of the Health and Social Care (Community Health and Standards) Act 2003, Section 185 inserted a new section 13 into the Social Security Act 1988 and therefore, the enabling powers quoted in the Regulations are sections 13(1) and 13(6) of the Social Security Act 1988. The Secretary of State for Health has been asked to commence the Assembly's powers in time for the Assembly to make these Regulations by 27 November 2006. This is the UK wide date for implementation of the Healthy Start Scheme. A delegation of functions from the Assembly to the First Minister and subsequently to the Minister for Health and Social Services will be made alongside these Regulations.

Effect

The proposed Regulations specify the range of foods that will be available under the Healthy Start Scheme in Wales. The definition of food in the Health and Social Care (Community Health and Standards) Act 2003 includes vitamins therefore the Regulations also state which vitamins will be available under the Scheme in Wales.

The foods that are currently available under the Welfare Food Scheme (WFS) are milk, infant formula and vitamins. The foods that will be available under the Healthy Start Scheme will be milk, infant formula, fresh fruit and vegetables and vitamins. The effect of the proposed Regulations is to expand the list of foods available to qualifying pregnant women, mothers and young children. The purpose of extending the range of foods is to provide nutritional safeguard for those pregnant women and children in disadvantaged families; to improve the health outcomes of disadvantaged families and to ensure that children from disadvantaged families have access to healthy food.

Qualifying beneficiaries will be entitled to vitamin tablets or vitamin drops appropriate for their nutritional and health needs in quantities prescribed in Regulations by the Secretary of State. This is the same provision as was made under the Welfare Food Regulations 1996.

Target Implementation

It is intended that these Regulations be made on the 21 November 2006 and come into force on 27 November 2006. Regulations also come into force in England, Scotland and Northern Ireland on the 27 November 2006. The Healthy Start Scheme is a UK wide scheme, failure to make these Regulations would mean the scheme could not operate effectively in Wales as there would be no description of the foods that are available under the Scheme in Wales, resulting in qualifying women and children under the age of four not receiving the foods they are entitled to if the target dates are not achieved.

Financial Implications

There are no financial implications arising from the implementation of these Regulations. The Welfare Food Scheme is a totally demand led budget administered by the Department of Health. The budget allocation for Wales in 2005/06 and 2006/07 is £9 million.

Regulatory Appraisal

A Regulatory Appraisal has been carried out in relation to this Instrument and is attached.

Consultation

With Stakeholders

There has been no formal consultation in relation to these Regulations. However, before the Healthy Start Scheme and Welfare Food (Amendment) Regulations 2005 were made in England, the Department of Health held a UK wide consultation, which included the description of healthy start

foods to be made available under the Scheme. An agreement was made during the passage of the Health and Social Care (Community Health and Standards) Act 2003, to initially prescribe the same foods in Wales as the other UK territorial countries. Therefore, further consultation was not considered necessary. Also, plans to reform the scheme were subject to a UK wide consultation by the Department of Health in October 2002. Over 500 written responses were received, a summary of these responses, which indicated overwhelming support for the need for reform was published in March 2003 and can be viewed at (www.dh.gov.uk).

With Subject Committee

These Regulations were notified to the Health and Social Services Committee, via the list of forthcoming legislation, on 8 October 2003 (HSS(2)-04-06, item no: HSS 48 (03) and have remained on the list ever since. The Regulations are scheduled for scrutiny by the Health and Social Services Committee on 11 October 2006.

Recommended Procedure

Subject to the views of the Business Committee, I recommend that these Regulations proceed to Plenary under the Standard procedure, to give Members a further opportunity to debate them.

Compliance

The proposed legislation will (as far as is applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 section 120);
- be compatible with the Assembly's scheme for sustainable development (section 121);
- be compatible with Community law (section 106);
- be compatible with the Assembly's human rights legislation (section 107);
- be compatible with any international obligations binding the UK Government and the Assembly (section 108).

The information in this Memorandum has been cleared with the Legal Services Department (LS).

Drafting lawyer: Rhian Williams, ext 3967 }
Head of Division: Keith Ingham, ext 3780
Drafting Policy Official: Claire Bond, ext 5667

Brian Gibbons AM September 2006
Minister For Health And Social Services

Regulatory Appraisal
National Health Service, Wales
The Healthy Start Scheme (Description of Healthy Start Food) (Wales) Regulations
2006

Background

1. The Welsh Assembly Government manages the Welfare Food Scheme in Wales and will manage, when it is introduced in November, the Healthy Start Scheme in Wales. However, responsibility and accountability for the existing Welfare Food Scheme and the soon to be introduced Healthy Start Scheme rests with the Department of Health.
2. The Healthy Start Scheme is being rolled out across the UK on the 27 November 2006 to replace the existing Welfare Food Scheme (WFS), first brought in as a war time measure in 1940 to protect the health of young children during times of rationing.
3. Under the existing Welfare Food Scheme pregnant women and families in receipt of certain qualifying benefits are eligible for tokens that can be exchanged for liquid cow's milk and once the baby is born tokens are exchangeable for infant formula and vitamins in NHS clinics and designated outlets.
4. The first scientific review of the WFS since its inception in 1940 was undertaken in 1999 by the Panel on Maternal and Child Nutrition of the Committee on the Medical Aspects of Food and Nutrition Policy (COMA). COMA concluded that whilst the WFS retained great potential for improving the health of nutritionally vulnerable pregnant women, mothers and young children, there were significant flaws within it. The review said that it:
 - Did not meet the wider nutritional needs of pregnant women and young children, who would benefit from a wider choice of foods to help address health inequalities;
 - is a disincentive to breastfeeding;
 - provides up to twice as much infant formula as 6-12 month olds need;
 - may provide too much milk for 1-5 year olds; and
 - did not effectively promote awareness or uptake of free vitamin supplements.
5. As a result of the COMA review the Government committed to reforming the WFS within existing budgets to reflect the review's recommendations.
6. Under the new Healthy Start Scheme those who qualify will receive a fixed faced value Healthy Start Voucher worth £2.80 that can be exchanged for liquid cow's milk, infant formula milk and fresh fruit and vegetables. Under Healthy Start:

- If you're pregnant, you get one voucher a week worth £2.80
- For each baby under the age of one, the family gets two vouchers a week worth a total of £5.60
- For each child aged over one and under four, the family gets one voucher a week worth £2.80

7. The vouchers will be exchangeable at a large range of retail outlets. All outlets that sell any of the Healthy Start foods are eligible to apply to participate in the scheme. The scheme offers much more flexibility and choice, supports breastfeeding, and encourages early and closer contact between health professionals and families from disadvantaged groups. In addition to Healthy Start food, beneficiaries will also be entitled to vitamin tablets or vitamin drops appropriate for his or her nutritional and health needs in quantities prescribed in Regulations made by the Secretary of State.

8. You qualify for Healthy Start if you are pregnant or have a child under 4 years of age and if the following applies:

- You or your family get Income Support, or
- You or your family get Income-Based Job-Seekers Allowance, or
- You or your family get Child Tax Credit and have an annual income less than £14, 555, or
- You are pregnant and under 18 years of age.

9. A rapid evaluation of Phase 1 undertaken by the Department of Health highlighted that overall, Healthy Start has been effectively implemented from the perspective of beneficiaries, health professionals and retailers.

10. The Department of Health intends to make and lay regulations for the implementation of Phase 2 of the Healthy Start Scheme in October 2006 to come into force on the 27 November 2006. Specifically they build on the Healthy Start Scheme and Welfare Foods (Amendment) Regulations 2005, which introduced the Healthy Start Scheme in areas of Devon and Cornwall, by extending the Healthy Start Scheme across Great Britain. They also amend and reduce the upper age limit for qualifying children to receive vouchers from the 5th birthday to the 4th birthday.

Purpose and Intended effect of the measure

11. These Regulations specify the range of healthy start foods and vitamins that will be available under the Healthy Start Scheme in Wales. The foods that are currently available under the Welfare Food Scheme are milk, infant formula and vitamins. Under the new Healthy Start Scheme those who qualify will receive a fixed face healthy start voucher worth £2.80 that can be exchanged for milk, infant formula and fresh fruit and vegetables. In addition they will be entitled to vitamins suitable for their nutritional and health needs.

12. The effect of the proposed Regulations is to expand the list of foods available to pregnant women, qualifying mothers and young children. The purpose of extending the range of foods is to provide nutritional safeguard for those pregnant women and children in disadvantaged families; to improve the health outcomes of disadvantaged families and to ensure that children from disadvantaged families have access to healthy foods.

Risk Assessment

13. There are no risks associated with Wales prescribing its own Healthy Start Foods. The Assembly has given an undertaking not to vary, at least initially, the range of foods available under the Healthy Start scheme.

Options

Option 1: Do Nothing

14. The Healthy Start Scheme is a UK wide scheme, failure to make these Regulations would mean that the scheme effectively could not operate in Wales, resulting in qualifying women and children under 4 not receiving the foods they are entitled to.

Option 2: Make the Regulations

15. The Regulations will specify the healthy start foods and vitamins that are available as part of the Healthy Start Scheme in Wales. As per the undertaking that has been given, these foods will, at least to start with, be the same as the foods and vitamins available across the rest of the UK.

Costs

16. There are no financial implications arising from the implementation of these Regulations in drafting the Regulations. The costs will be accommodated within administration costs budgets. The Welfare Food Scheme is a totally demand led budget administered by the Department of Health. The budget allocation for Wales in 2005/06 and 2006/07 is £9 million.

17. The Regulatory Impact Assessment carried out by the Department of Health in 2005, which was a UK wide assessment, found the following:

- In 2005 indicates that the dairy industry as a whole is likely to be affected by the proposed changes as milk supplied under the Welfare Food Scheme accounted for around £70m of milk sales (GB) in 2005-6. The estimated figures for 2002 shows that approximately 40% of WFS liquid milk was then supplied to milk token beneficiaries by around 8,400 doorstep deliverers. This figure has since declined steadily to 32% in 2005 and approximately 28% in 2005-6.
- The number of doorstep deliverers who stated that the WFS accounted for more than 7.5% of their sales in 2005-6 was 26. The introduction of Healthy Start may impact the greatest on this very small number of doorstep deliverers should beneficiaries chose to exchange their Healthy Start vouchers elsewhere.
- For national roll out, the worst case estimate on numbers of milk rounds becoming unviable as a direct result of the introduction of Healthy Start would be 26. This is based on the number stating that WFS accounts for more than 7.5% of their sales, and assuming that all of these

would experience a complete loss of WFS sales as a result of customers going elsewhere to use their vouchers.

- However, the dairy industry estimated in 2002 that up to 1,500 milk rounds across Great Britain may become non-viable following full implementation of Healthy Start. On the basis of these figures, it could affect 630,000 doorstep customers and reduce industry revenue by £135 million per annum. Closed milk rounds are most likely to be predominant in the more disadvantaged areas of the country.
- In total, around 14,000 other existing WFS retailers across GB could also be affected by the introduction of Healthy Start. This includes small stores and conveniences (which supplied approximately 33% of liquid milk to beneficiaries under the Scheme in 2005-6), large multiple grocers (28% of sales) and small multiple grocers and other outlets (10% of sales).
- Infant formula manufacturers who gained approximately £25m of sales through the WFS in 2005-6 may also be affected. This is because all sales of infant formula will be undertaken through retail outlets rather than NHS clinics.
- Manufacturers could be adversely affected if breastfeeding rates increase, but they also stand to benefit as infant formula is to be made more widely available in retail outlets and pharmacies, with those offering lower priced brands gaining the most. They will also benefit from the removal of restrictions on the specific brands and pack sizes of infant formula which may be supplied, as well as the inclusion of ready to feed versions. The discontinuation of supply of reduced price infant formula through the NHS has also no doubt already led to a fall in sales through retail across Great Britain.
- If the voucher results in a substantial shift in buying patterns, this may adversely affect doorstep deliverers (who currently receive 35% of milk tokens). Dairy Crest has estimated that the impact on sales nationwide at roll-out of Healthy Start could be up to £0.5m a year if this is replicated.
- Those retailers not able to offer the full range of Healthy Start foods products or smaller businesses who may find difficulty in competing with larger retailers and supermarkets may also be affected. However, this must be balanced against the new opportunities that will be created for businesses that have hitherto not been able to participate in the WFS. This could include, for example, greengrocers, farmer's markets and local community food initiatives.
- It is estimated that the total spending within the food and retail industry as a whole would be maintained at almost £100m per year.
- It is anticipated that there will be no adverse impact on businesses in relation to the prescription of vitamins in these Regulations.

With Stakeholders

18. There has been no formal consultation in relation to these Regulations. However, before the Healthy Start Scheme and Welfare Food (Amendment) Regulations in 2005 were made in England, the Department of Health held a UK wide consultation, on the Regulations which included the description of healthy start foods to be made available under the Scheme. An agreement was made, because of the undertaking that was given during the passage of the Health and Social Care (Community Health and Standards) Act 2003, to initially prescribe the same foods (which includes vitamins) in Wales as the other UK territorial countries. Therefore, further consultation was not considered necessary. Also, plans to reform the scheme were subject to a UK wide consultation by the Department of Health in October 2002. Over 500 written responses were received, a summary of these responses, which indicated overwhelming support for the need for reform was published in March 2003 and can be viewed at (www.dh.gov.uk). Therefore, there was not thought to be any merit in repeating the consultation exercise.

With Subject Committee

19. These Regulations were notified to the Health and Social Services Committee, via the list of forthcoming legislation, on 8 October 2003 (HSS(2)-04-06, item no: HSS 48 (03) and have remained on the list ever since. The Regulations are scheduled for scrutiny by the Health and Social Services Committee on 11 October 2006.

Review

20. The Department of Health plan to implement a long-term evaluation project, which will aim to look more specifically at the health impact of the scheme. Voucher value and the range of foods allowed will also be specifically monitored. Wales will be advised of the outcomes.

Summary

21. These Regulations will specify the range of healthy start foods, including vitamins, available under the Healthy Start Scheme in Wales.