Dear Colleague

**INFLUENZA A (H1N1) (‘SWINE FLU’) REGULATORY AMENDMENTS – PHARMACEUTICAL SERVICES, NHS CHARGES AND NHS CHARGES FOR OVERSEAS VISITORS**

**Summary**

1. This circular provides information about regulatory amendments introduced on 8 May 2009 to the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995 (“the Regulations”), the National Health Services (Charges for Drugs and Appliances) (Scotland) Regulations 2008, and the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989.

2. The changes offer flexibility to NHS Boards in respect of arrangements to provide for an emergency arising out of a threat to human welfare which is caused or may be caused by an illness (for example, pandemic influenza). The changes are outlined in **Annex A**.

3. These arrangements were brought in under emergency procedures, in response to the World Health Organisation raising the threat level for pandemic influenza to phase 5, and will *only* come into force following Directions issued by Scottish Ministers to NHS Boards.

4. We would welcome your comments/views.

**Action**

5. NHS Boards are asked to note the contents of the CEL and copy it to all GP practices and community pharmacies on their lists.

Yours sincerely

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Deputy Director
ANNEX A

INFLUENZA A (H1N1) ('SWINE FLU') REGULATORY AMENDMENTS – PHARMACEUTICAL SERVICES, NHS CHARGES AND NHS CHARGES FOR OVERSEAS VISITORS

Pharmaceutical Services

1. The purpose of these Regulations is to amend the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995 ("the Regulations") which regulate the provision of pharmaceutical services in order to provide for the introduction of temporary changes to these arrangements in the event of an emergency arising out of a threat to human welfare which is caused or which may be caused by an illness designated in the Direction issued by Scottish Ministers (for example, pandemic influenza).

2. In the case of an emergency requiring the flexible provision of pharmaceutical services, arrangements are put in place to enable pharmacists to relocate temporarily, or take on additional premises, without needing to go through the normal applications process, where it is reasonable to do so, in agreement with their NHS Boards.

3. The regulations also provide flexibility in relation to the opening hours of community pharmacies ensuring these can be varied quickly, as may be required in such a situation.

4. These amendments will only come into force when Scottish Ministers issue Directions declaring the need for the flexible provision of pharmaceutical services to NHS Boards under section 2(5) of the 1978 Act which will set out any conditions or limitations on the exercise by NHS Boards of the functions conferred on them by the Regulations.

NHS Prescription Charges

5. The amendments to the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2008 provide that no charge will be payable under those Regulations for the supply of drugs or preparations for the treatment of pandemic influenza or influenza which may become pandemic (specifically the two antiviral drugs oseltamivir or zanamivir) during such an emergency.

6. Currently Directions made under section 17N of the NHS (Scotland) Act 1978 provide that GPs cannot prescribe certain drugs, medicines or other substances or may prescribe them in certain circumstances only. At present oseltamivir or zanamivir may be prescribed to "at risk" patients for the treatment or prevention of seasonal flu when a community based surveillance scheme records that the disease is circulating at a certain prescribed level. "At risk" patients are those who are suffering an underlying condition, such as respiratory or renal disease, or are aged 65 or over.
7. However, should it be decided there is a need to relax this position and allow GPs to prescribe them for any patient who has a clinical need, we would plan to issue Directions deleting oseltamivir or zanamivir from the appropriate Schedules, which currently impose restrictions on prescribing these medications.

**Charges for overseas visitors**

8. In the interests of isolating potential or actual cases of influenza which is or could become pandemic and in encouraging potential carriers or actual carriers of the virus to come forward, Schedule 1 of the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 - *diseases for the treatment of which no charge is to be made* - has been revised.

9. The amendment provides that visitors from outside the UK would receive treatment in respect of pre-pandemic and pandemic influenza free of charge, whether delivered in the community or in a hospital setting.