STATUTORY INSTRUMENTS

1999 No. 2562

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) Regulations 1999

Made - - - - -	*13th September 1999*
Laid before Parliament	*14th September 1999*
Coming into force - -	*5th October 1999*

The Secretary of State, in exercise of the powers conferred by sections 38(1), (3), (4) and (6), 39, 78, 126(4) and 128(1) of, and paragraphs 2 and 2A of Schedule 12 to, the National Health Service Act 1977(**a**), hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) Regulations 1999 and shall come into force on 5th October 1999.

(2) In these Regulations—

(a) "the 1997 Regulations" means the National Health Service (Optical Charges and Payments) Regulations 1997(**b**);

(b) "the 1986 Regulations" means the National Health Service (General Ophthalmic Services) Regulations 1986(**c**).

Amendment of the 1997 Regulations

2.—(1) In Regulation 1(2) of the 1997 Regulations (citation, commencement and interpretation)—

(a) after the definition of "the Act" there shall be inserted the following definition—

""amount withdrawn" means the amount by which the appropriate maximum disabled person's tax credit or, as the case may be, working families' tax credit,

(**a**) 1977 c. 49; *see* section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) ("the 1990 Act"), section 26(2)(g) and (i), for the definitions of "prescribed" and "regulations". Section 38 was amended by the Health Services Act 1980 (c. 53) ("the 1980 Act"), section 1 and Schedule 1, paragraph 51; by the Health and Social Security Act 1984 (c. 48) ("the 1984 Act"), section 1(3); by S.I. 1985/39, article 7(11); by the Health and Medicines Act 1988 (c. 49) ("the 1988 Act"), section 13(1); and by the Health Authorities Act 1995 (c.17) ("the 1995 Act"), Schedule 1, paragraph 27. Section 39 was extended by the 1988 Act, section 17; and amended by the 1980 Act, section 1 and Schedule 1, paragraph 52; by the 1984 Act, section 1(4), Schedule 1, Part I, paragraph 1 and Schedule 8, Part I; by S.I. 1985/39, article 7(12); and by the 1995 Act, Schedule 1, paragraph 28. Section 126(4) was amended by the 1990 Act, section 65(2); and the Health Act 1999 (c. 8), Schedule 4, paragraph 37(6). Paragraph 2(1) of Schedule 12 was substituted by the 1988 Act, Schedule 2, paragraph 8(1); paragraph 2A of Schedule 12 was inserted by the 1984 Act, Schedule 1, Part I, paragraph 3 and amended by the 1988 Act, section 13(2) and (3). As regards Wales, the functions of the Secretary of State under sections 38, 39, 78 and 126(4) of, and paragraphs 2 and 2A of Schedule 12 to, the 1977 Act are transferred to the National Assembly for Wales under article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 S.I. 1999/672; these Regulations therefore extend only to England.

(**b**) S.I. 1997/818; the relevant amending instrument is S.I. 1999/609.

(**c**) S.I. 1986/975; the relevant amending instruments are S.I. 1989/395, 1995/558 and 1996/2320.

determined in accordance with section 129(8) or 128(5) of the Social Security Contributions and Benefits Act 1992(**a**), as the case may be, is reduced by virtue of the claimant's income exceeding the applicable amount;";

(b) for the definition of "disability working allowance" there shall be substituted the following definition—

""disabled person's tax credit" means disabled person's tax credit under section 129 of the Social Security Contributions and Benefits Act 1992;";

(c) for the definition of "family credit" there shall be substituted in the appropriate place the following definition—

""working families' tax credit" means working families' tax credit under section 128 of the Social Security Contributions and Benefits Act 1992;".

(2) Regulation 8 of the 1997 Regulations (eligibility—supply of optical appliances) shall be amended as follows—

(a) for paragraph (3)(c) there shall be substituted—

"(c) he is in receipt of working families' tax credit with an amount withdrawn of £70 or less;";

(b) for paragraph (3)(d) there shall be substituted—

"(d) he is a member of the same family as a person described in paragraph (c) of this paragraph;";

(c) for paragraph (3)(g) there shall be substituted—

"(g) he is in receipt of disabled person's tax credit with an amount withdrawn of £70 or less;";

(d) in paragraph (4)(b) for "family credit" there shall be substituted "working families' tax credit";

(e) in paragraph (4)(c) for "disability working allowance" there shall be substituted "disabled person's tax credit".

Amendment of the 1986 Regulations

3.—(1) In regulation 2(1) of the 1986 Regulations (interpretation)—

(a) after the definition of "the 1984 Act" there shall be inserted the following definition—

""amount withdrawn" means the amount by which the appropriate maximum disabled person's tax credit or, as the case may be, working families' tax credit, determined in accordance with section 129(8) or 128(5) of the Social Security Contributions and Benefits Act 1992(**b**), as the case may be, is reduced by virtue of the claimant's income exceeding the applicable amount;";

(b) for the definition of "disability working allowance" there shall be substituted the following definition—

""disabled person's tax credit" means disabled person's tax credit under section 129 of the Social Security Contributions and Benefits Act 1992;";

(c) for the definition of "family credit" there shall be substituted in the appropriate place the following definition—

""working families' tax credit" means working families' tax credit under section 128 of the Social Security Contributions and Benefits Act 1992;".

(2) Regulation 13 of the 1986 Regulations (sight tests—eligibility) shall be amended as follows—

(a) for paragraph (2)(c) there shall be substituted—

"(c) he is in receipt of working families' tax credit with an amount withdrawn of £70 or less;";

(b) for paragraph (2)(d) there shall be substituted—

"(d) he is a member of the same family as a person described in paragraph (c) of this paragraph;";

(**a**) Sections 128 and 129 were amended by the Tax Credits Act 1999 (c. 10), Schedule 1, paragraphs 1 and 2(g) and (h).
(**b**) Sections 128 and 129 were amended by the Tax Credits Act 1999 (c. 10), Schedule 1, paragraphs 1 and 2(g) and (h).

(c) for paragraph (2)(g) there shall be substituted—

"(g) he is in receipt of disabled person's tax credit with an amount withdrawn of £70 or less;";

(d) in paragraph (3)(b) for "family credit" there shall be substituted "working families' tax credit".

Transitional Provision

4.—(1) Where immediately before 5th October 1999 a person, or a member of his family, was in receipt of disability working allowance or family credit, as the case may be, the amendments made by regulation 2 or 3 of these Regulations shall not have effect in his case for so long as he, or a member of his family, continues to be in receipt of disability working allowance or family credit, as the case may be.

(2) In this regulation, "disability working allowance" and "family credit" shall continue to have the meaning given to them in the 1997 Regulations or the 1986 Regulations, as the case may be, immediately before the coming into force of these Regulations.

Signed by authority of the Secretary of State for Health

John Denham
Minister of State,
Department of Health

13th September 1999

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (Optical Charges and Payments) Regulations 1997 ("the 1997 Regulations") which provide for payments to be made by means of a voucher system in respect of costs incurred by certain categories of persons in connection with the supply, replacement and repair of optical appliances. These Regulations also amend the National Health Service (General Ophthalmic Services) Regulations 1986 ("the 1986 Regulations") which provide for the arrangements under which ophthalmic medical practitioners and ophthalmic opticians provide ophthalmic services.

Regulation 2 amends the 1997 Regulations, and regulation 3 amends the 1986 Regulations, consequent upon the replacement of family credit and disability working allowance by working families' tax credit and disabled person's tax credit respectively.

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