POLICY NOTE

THE NATIONAL HEALTH SERVICE (OPTICAL CHARGES AND PAYMENTS AND GENERAL OPHTHALMIC SERVICES) (SCOTLAND) AMENDMENT REGULATIONS 2022

SSI 2022/169

The above instrument was made in exercise of the powers conferred by sections 26, 28A(4), 70(1), 73(a), 74(a) and 105(7) and paragraphs 2(2) and 2A of schedule 11 of the National Health Service (Scotland) Act 1978. The instrument is subject to negative procedure.

Purpose of the instrument: To increase NHS optical voucher values by 2%, to support more patients with eye problems being safely managed within the community, to enable remote consultations and to deliver other miscellaneous changes.

Policy objectives

The instrument amends the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998 ("the 1998 Regulations") and the National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006 ("the 2006 Regulations").

In addition to minor amendments, this instrument makes the changes detailed below.

Optical vouchers - Uprating of values

Optical vouchers provide financial help towards the purchase of new, or repair or replacement of existing, glasses or contact lenses for certain categories of people, including children under 16, those aged 16 to 19 in qualifying full-time education and those who require complex lenses. For adults, other than assistance for complex appliances, help is income related, with those in receipt of certain benefits automatically entitled to a voucher while others on low incomes may be entitled to help under the NHS Low Income Scheme.

This instrument amends the 1998 Regulations by increasing the values of all optical voucher categories and supplements by 2%, ensuring that the values of optical vouchers issued in Scotland continue to match those issued elsewhere in the UK.

Optical vouchers - Special facial characteristics supplement

If a patient is under the care of the hospital eye service and, for clinical reasons, requires a more expensive, specially-made frame for their glasses (because a basic spectacle frame will not fit correctly), then a special facial characteristics supplement can be added to the value of an optical voucher issued by the relevant NHS Board. A typical example in these circumstances would be a patient who has Down's Syndrome.

The 1998 Regulations does not currently permit this supplement to be included on an optical voucher issued by an optometrist or ophthalmic medical practitioner ("OMP") based in the community.

This instrument makes things more convenient for patients and aims to reduce pressure on the hospital eye service by amending the 1998 Regulations to permit an optometrist or OMP based in the community to issue an optical voucher which includes the special facial characteristics supplement.

Referrals following a General Ophthalmic Services eye examination

In the early stages of the COVID-19 pandemic, routine face-to-face eye care services were suspended and a network of Emergency Eyecare Treatment Centres ("EETCs") was established across Scotland where patients with emergency and potentially serious sight-threatening eye conditions could be referred to for treatment after being remotely triaged[1].

Most of the EETCs were based in the community and resourced with an Independent Prescriber ("IP") optometrist, who are additionally qualified and who can be issued with a NHS prescribing pad that enables them to issue NHS prescriptions to patients. This emergency referral system was highly successful in ensuring that most patients with emergency eye problems were managed safely in the community and did not need to be seen in hospital.

The General Optical Council (Rules relating to Injury or Disease of the Eye) Order of Council 1999 ("1999 Rules"), SI 1999/3267[2], as amended, permits an optometrist to refer a patient suffering from a suspected injury or disease of the eye to another optometrist who has the appropriate qualifications or expertise, which might be an IP optometrist. However, under the 2006 Regulations, following a General Ophthalmic Services ("GOS") eye examination an optometrist or OMP can only currently refer such a patient to their General Practitioner or to the hospital eye service.

Building on the proven success of the emergency referral and treatment system used in the early stages of the COVID-19 pandemic, and noting the 1999 Rules, this instrument amends the 2006 Regulations by enabling an optometrist or OMP to refer a patient with a serious eye problem to an IP optometrist or other OMP following a GOS eye examination. This will support more NHS patients with eye problems being managed in the community closer to their home, helping to reduce the burden on hospitals and General Practitioners.

GOS eye examinations undertaken remotely

Prior to the COVID-19 pandemic, and in accordance with the 2006 Regulations, GOS eye examinations were undertaken in person between the patient and the optometrist or OMP.

To help ensure the continued safe management of patients during the COVID-19 pandemic, the Scottish Government had allowed for optometrists and OMPs submitting GOS payment claims to NHS National Services Scotland ("NSS") for remote consultations provided to patients when deemed clinically appropriate and safe[3].

Although GOS activity in most areas of Scotland has now largely recovered to pre-pandemic levels, and this is predominantly being undertaken in person, there is general agreement in the community eye care sector and NHS Scotland that the ability to manage a patient remotely

[1] https://www.sehd.scot.nhs.uk/pca/PCA(O)(2020)06.pdf
[2] https://www.legislation.gov.uk/uksi/1999/3267/contents/made
[3] https://www.sehd.scot.nhs.uk/pca/PCA2020(O)05.pdf

(where deemed clinically appropriate and safe, and under certain rules and circumstances) should form a permanent part of GOS in Scotland in order to support safe and accessible care.

With NHS Scotland no longer on an emergency footing as of 30 April 2022, the Scottish Government considers this to be an appropriate time to deliver this change. This instrument accordingly amends the 2006 Regulations to provide the flexibility for GOS to be undertaken using remote facilities.

In addition to the relevant amendments to the 2006 Regulations, a new Statement of remuneration (which is made and published by Scottish Ministers under regulation 17 of the 2006 Regulations) will be issued in due course providing additional detail on the circumstances in which an optometrist or OMP can submit a payment claim to NSS for a GOS eye examination which is undertaken using remote facilities.

Mandatory training for GOS practitioners

Introduction of "cut-off" date

The 2006 Regulations provides that all optometrists and OMPs (except bodies corporate) included on a NHS Board's Ophthalmic List must, as part of their Terms of Service for providing GOS, undertake training provided by NHS Education for Scotland ("NES") in each "relevant period" (paragraph 3A of Schedule 1 of the 2006 Regulations). On 1 January 2021, each relevant period changed to a 12 month period spanning a calendar year.

An optometrist or OMP who is not already included on any NHS Board's Ophthalmic List in Scotland must, at the point they are included on any such List, currently undertake and satisfactorily complete the mandatory training for the relevant period, irrespective of which date in the calendar year they are added to the List.

When an optometrist or OMP is added to an Ophthalmic List towards the end of the calendar year, this creates challenges for NES in delivering and assessing the mandatory training and for NHS Boards in monitoring and enforcing compliance with the mandatory training requirement.

As such, it is considered that an optometrist or OMP who is added to a NHS Board's Ophthalmic List after 31 October in any calendar year, and who is otherwise not already included on another NHS Board's Ophthalmic List, should not have to satisfactorily complete the mandatory training for that relevant period. This instrument delivers this policy by accordingly amending the 2006 Regulations.

Removal of requirement to send certificate of satisfactory completion to NHS Board

After an optometrist or OMP has satisfactorily completed the mandatory training for the relevant period, they must currently send a certificate confirming this fact to each NHS Board on whose Ophthalmic List they are included. The original policy intention for this was to assist NHS Boards in monitoring and enforcing compliance with the mandatory training requirement.

In practice, this has proven to be administratively burdensome for optometrists and OMPs and NHS Boards, and it is considered that the requirement to provide such certificates should cease. This instrument delivers this policy by accordingly amending the 2006 Regulations. An alternative, more efficient means of assisting NHS Boards in monitoring and enforcing compliance with the mandatory training requirement is being developed.

Renaming 'continuing education and training' as 'continuing professional development'

The General Optical Council (the regulatory body for the optical sector in the UK) consulted in 2021 on UK-wide changes to its continuing education and training scheme, including changing its description to "continuing professional development"[4] and subsequently secondary legislation made this change[5].

Taking into account this UK-wide change, and in order to align with the same term used across other professions, this instrument amends the 2006 Regulations by replacing the term continuing education and training with continuing professional development. In addition to this amendment, a new Statement of remuneration made and published by Scottish Ministers under regulation 17 of the 2006 Regulations will be issued in due course reflecting this terminology change.

Consultation

Optometry Scotland and NHS Boards have been consulted in the preparation of this instrument. These views have been factored into the preparation of this instrument.

Impact Assessments

There are no Equalities, Children's Rights and Wellbeing, Island Communities, Socio-economic or Strategic Environmental impact issues arising from this instrument.

Financial Effects

The Minister for Public Health, Women's Health and Sport confirms that no Business and Regulatory Impact Assessment is necessary as the instrument itself has no financial effects on business and the third sector. The financial effect on the Scottish Government from the increase in optical voucher values will be met from within existing budgets.

Scottish Government
Directorate of Primary Care
Dentistry and Optometry Division
May 2022

[4] https://consultation.optical.org/standards-and-cet/cetreview/
[5] https://www.legislation.gov.uk/uksi/2021/1234/contents/made