SCOTTISH STATUTORY INSTRUMENTS

2004 No. 168

NATIONAL HEALTH SERVICE

The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2004

Made - - - - *30th March 2004*

Laid before the Scottish Parliament *31st March 2004*

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

The Scottish Ministers, in exercise of the powers conferred by sections 26, 70(1), 74(a), 105(7) and 108(1) of, and paragraphs 2 and 2A of Schedule 11 to, the National Health Service (Scotland) Act 1978(**a**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2004.

(2) Subject to paragraphs (3) and (4) these Regulations shall come into force on 1st April 2004.

(3) Regulation 2(2)(a) shall come into force on 1st May 2004.

(4) Regulation 2(4) shall come into force on 6th April 2004.

Amendment of the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998

2.—(1) The National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998(**b**) are amended as follows.

(**a**) 1978 c.29; section 26 was amended by the Health and Social Security Act 1984 (c.48) ("the 1984 Act"), Schedule 1, Part II, paragraphs 1 to 4 and Schedule 8 and by the Health and Medicines Act 1988 (c.49) ("the 1988 Act"), section 13(4); section 70(1) was amended by the 1988 Act, Schedule 3; section 105(7) was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5 and Schedule 7, by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 9, paragraph 24 and by the Health Act 1999 (c.8), Schedule 4, paragraph 60; section 108(1) contains definitions of "prescribed" and "regulations" relevant to the exercise of the statutory powers under which these Regulations are made; paragraph 2(1) of Schedule 11 was substituted by the 1988 Act, Schedule 2, paragraph 15(1), and paragraph 2A of Schedule 11 was inserted by the 1984 Act, Schedule 1, Part II, paragraph 7 and amended by the 1988 Act, section 13(2) and (5). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1988 (c.46).

(**b**) S.I. 1998/642; amended by S.I. 1999/748 and S.S.I. 1999/64, 2000/45 and 395, 2001/88, 86 and 224, 2003/218 and 431 and 2004/97.

(2) In regulation 1(2) (interpretation)–

(a) in the definition of "NHS sight test fee"(**a**)–

(i) in sub-paragraph (a) for "£46.16 substitute "£49.19"; and

(ii) in sub-paragraph (b) for "£16.72" substitute "£17.82";

(b) in the definition of "responsible authority"(**b**), omit "an NHS trust," from paragraphs (b) to (g) and substitute "a Health Board"; and

(c) in the definition of "voucher"(**c**) in paragraph (b) omit–

(i) in sub-paragraph (i) "an NHS trust" and substitute "a Health Board"; and

(ii) in sub-paragraph (ii)–

(aa) "an NHS trust" and substitute "a Health Board"; and

(bb) "NHS trust" and substitute "Health Board".

(3) In regulation 2(2) (charges for glasses and contact lenses)(**d**) omit "NHS trust" and substitute "Health Board".

(4) In regulation 8(3)(e) (eligibility – supply of optical appliances) after "requirements as so calculated" insert "or exceeds his requirements as so calculated by fifty per cent or less of the amount of the charge specified in regulation 3(1)(b) (supply of drugs and appliances by chemists) of the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2001(**e**).

(5) In regulation 8(5) (eligibility – supply of optical appliances)(**f**) omit–

(a) "an NHS trust" and substitute "a Health Board"; and

(b) "NHS trust" and substitute "Health Board".

(6) In regulation 10 (issue of vouchers by NHS trusts in connection with the hospital eye service)(**g**) omit–

(a) "NHS trusts" in the heading and substitute "Health Boards"; and

(b) "NHS trust" in paragraphs (1) and (2) and substitute "Health Board".

(7) In regulation 11 (issue of replacement voucher by the Agency or NHS trust)(**h**) omit–

(a) "NHS trust" in the heading and substitute "Health Boards"; and

(b) "NHS trust" and substitute "a Health Board".

(8) In Schedule 1 (voucher letter codes and face values - supply and replacement)(**i**), in column 1 in relation to each of the letter codes I and J, omit "an NHS trust" and substitute "a Health Board".

(**a**) The definition of "NHS sight test fee" was amended by S.I. 1999/748, regulation 3(a)(ii) and S.S.I. 2000/45, regulation 2, 2000/395, regulation 2, 2001/88, regulation 2, 2002/17, regulation 2(2) and 2002/224, regulation 2(2).
(**b**) The definition of "responsible authority" was substituted by S.S.I. 1999/64, regulation 3(2)(e).
(**c**) The definition of "voucher" was substituted by S.S.I. 1999/64, regulation 3(2)(f).
(**d**) Regulation 2(2) was amended by S.S.I. 1999/64, regulation 4.
(**e**) S.S.I. 2001/430; amended by S.S.I. 2002/100, 2003/130 and 2004/66.
(**f**) Regulation 8(5) was amended by S.S.I. 1999/64, regulation 5(g).
(**g**) Regulation 10 was amended by S.S.I. 1999/64, regulation 6.
(**h**) Regulation 11 was substituted by S.I. 1999/748, regulation 6 and amended by S.S.I. 1999/64, regulation 8, 2000/45, regulation 5, 2001/88, regulation 9, 2002/86, regulation 2(4) and 2003/218, regulation 3(6).
(**i**) Schedule 1 was substituted by S.I. 1999/748 and amended by S.S.I. 1999/64, regulation 8, 2000/45, regulation 5, 2001/88, regulation 9, 2002/86, regulation 2(4), 2003/218, regulation 3(6) and 2004/97, regulation 2(4).

(9) In Schedule 3, paragraph 1(1)(g) (prisms, tints, photochromic lenses, small glasses and special frames and complex appliances)(**a**) omit "an NHS trust" where it twice appears and substitute "a Health Board".

MALCOLM CHISHOLM
A member of the Scottish Executive

St Andrew's House,
Edinburgh
30th March 2004

(**a**) Schedule 3 was amended by S.I. 1999/748, regulation 12(3), S.S.I. 1999/64, regulation 9, 2000/45, regulation 5(3), 2001/88, regulation 9(3), 2003/218, regulation 3(8) and 2004/97, regulation 2(6).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998 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 sight tests and the supply, replacement or repair of optical appliances and make consequential provisions arising from the dissolution of NHS trusts.

Regulation 2(2) amends the definition of "NHS sight test fee" to reflect the values of the two levels of fees for National Health Service sight tests payable to ophthalmic medical practitioners and opticians. This fee is set at two levels depending on whether or not the sight test was carried out at the patient's home and the appropriate figure is used to calculate the value of assistance towards the cost of a private sight test.

The fee for a test at home is increased from £46.16 to £49.19 and for tests elsewhere from £16.72 to £17.82.

Regulation 2(2)(b) and (c), (3) and (5) to (9) remove references to NHS trusts and substitute references to Health Boards.

Regulation 2(2)(4) increases the income level at which entitlement arises to a voucher towards the cost of an optical appliance. The income level at which entitlement arises is increased from that which is equal to (or less than) a person's requirements to that which exceeds requirements by fifty per cent or less of the NHS prescription charge.

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