EXECUTIVE NOTE

The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2008
SSI/2008/289

The above instrument was made in exercise of the powers conferred on the Scottish Ministers by sections 70(1), 105(7) and 108(1) of, and by paragraphs 2 and 2A of Schedule 11 to, the National Health Service (Scotland) Act 1978. The instrument is subject to negative resolution procedure.

Policy Objectives

The purpose of these Regulations is to amend the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998 ("the principal Regulations") to reflect forthcoming changes to the benefit regime.

Income-Related Employment and Support Allowance (ESA)

The Welfare Reform Act 2007 comes into force on 27 October 2008. Section 1 of the Act introduces a new benefit, Employment and Support Allowance (ESA), for claimants having limited capacity to work. ESA replaces Incapacity Benefit (to which entitlement is based on National Insurance contributions) and Income Support (to which entitlement is income based) for new claimants. Existing claimants will be migrated to ESA over time to bring all claimants under the one regime.

Claimants of Income Support (and members of that person's family) are currently entitled to a voucher towards the cost of the supply, replacement and repair of optical appliances. Amendment to the principal Regulations is required to extend the eligibility criteria to claimants of income related ESA (and members of that person's family).

These Regulations ensure that those receiving income related ESA (and members of that person's family) will receive the same entitlement to vouchers once the new benefit is introduced and ensure that no Scottish patient is disadvantaged by the introduction of ESA.

Consultation

There has been no consultation by the Scottish Government in respect of these Regulations. This is normal practice when regulations are introduced to take account of changes to the benefit regime. As noted above the amendments are being made in response to changes by the Department of Work and Pensions to the benefit regime. DWP launched a consultation in July called "No one written off: reforming welfare to reward responsibility" which closes on 22 October 2008.

Consolidation

The Scottish Government is aware of the desirability of consolidating regulations when an instrument has been amended on a number of occasions. However, the time and resources required to consolidate an instrument has to be balanced against the other demands being made on the Directorate. Bearing those demands in mind, it has been decided not to consolidate these particular regulations nor are there any plans to do so at this time.

Financial Effects

The majority of individuals previously eligible for help towards the cost of the supply, replacement and repair of optical appliances on low income grounds will now be eligible for help through ESA. However, there are a small number of people who, prior to the introduction of ESA, would have been eligible as they were in receipt of Incapacity Benefit with an Income Support top up but will now no longer be automatically eligible. This group will need to apply for help through the Low Income Scheme. We expect this change to be cost neutral.

Scottish Government, Primary and Community Care Directorate
27 August 2008