1988 No. 552

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service (Payments for Optical Appliances) Amendment (No. 2) Regulations 1988

Made - - - -	*21st March 1988*
Laid before Parliament	*21st March 1988*
Coming into force	*11th April 1988*

The Secretary of State for Social Services, in exercise of powers conferred on him by paragraph 2A of Schedule 12 to the National Health Service Act 1977**(a)** and of all other powers enabling him in that behalf, hereby makes the following Regulations:–

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Payments for Optical Appliances) Amendment (No. 2) Regulations 1988 and shall come into force on 11th April 1988.

(2) In these Regulations "the principal Regulations" means the National Health Service (Payments for Optical Appliances) Regulations 1986**(b)**.

Amendment of regulation 1 of the principal Regulations

2. In regulation 1(2) of the principal Regulations (interpretation)–

(a) after the definition of "the Act" there is inserted the following definition:–

" "capital limit" means the amount prescribed for the purposes of section 22(6) of the Social Security Act 1986**(c)** as it applies to income support;";

(b) the definition of "contribution assessment" is omitted;

(c) after the definition of "face value" there are inserted the following definitions:–

" "family credit" means family credit under Part II of the Social Security Act 1986;

"income support" means income support under Part II of the Social Security Act 1986 and includes personal expenses addition, special transition addition and transitional addition as defined in regulation 2(1) of the Income Support (Transitional) Regulations 1987**(d)**;";

(d) after the definition of "minimum complex appliance payment" there is inserted the following definition:–

" "notice of entitlement" means a notice issued under regulation 7 of the Remission Regulations for the purposes of remission of charges under the Act;";

(a) 1977 c.49; see section 128(1) for the definitions of "prescribed" and "regulations"; paragraph 2A of Schedule 12 was inserted by the Health and Social Security Act 1984 (c.48), Schedule 1, Part I, paragraph 3.
(b) S.I. 1986/976, amended by S.I. 1986/1136 and 1988/428.
(c) 1986 c.50; regulation 45 of the Income Support (General) Regulations 1987 (S.I. 1987/1967) has prescribed the amount of £6,000 as the capital limit.
(d) S.I. 1987/1969.

(e) for the definition of "patient's contribution" there is substituted the following:–

" "patient's contribution" means the amount specified under regulation 7(5) of the Remission Regulations as that for which there is no entitlement under those Regulations to remission of charges;";

(f) after the definition of "redemption value" there is inserted the following definition:–

" "the Remission Regulations" means the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988(a);".

Amendment of regulation 3 of the principal Regulations

3. In regulation 3 of the principal Regulations (eligibility for payment of costs of optical appliances)–

(a) in paragraph (2), sub-paragraphs (d) and (e) are omitted and after sub-paragraph (f) there is added the following sub-paragraph:–

"(g) a person whose income resources, as calculated in accordance with regulation 6 of, and Schedule 1 to, the Remission Regulations for the purposes of remission of charges under the Act, are equal to or exceed his requirements as so calculated but whose patient's contribution is nil or is less than the face value of a voucher issued to him under these regulations and whose capital resources as so calculated do not exceed the capital limit.";

(b) for paragraph (3) there are substituted the following paragraphs:–

" (3) A person's resources shall be treated as being less than his requirements if–

(a) he is in receipt of income support;

(b) he is a member of the same family as a person who is in receipt of income support;

(c) he is in receipt of family credit;

(d) he is a member of the same family as a person who is in receipt of family credit; or

(e) his income resources as calculated in accordance with regulation 6 of, and Schedule 1 to, the Remission Regulations for the purposes of remission of charges under the Act are less than his requirements as so calculated and his capital resources as so calculated do not exceed the capital limit.

(4) In paragraph (3)(b) and (3)(d) "family" has the meaning assigned to it by section 20(11) of the Social Security Act 1986 as it applies to income support and to family credit respectively(b).".

Amendment of regulation 6 of the principal Regulations

4. In regulation 6 of the principal Regulations (use of voucher)–

(a) in paragraph (4)–

(i) for "regulation 3(3)(c)" there is substituted "regulation 3(2)(g), or by virtue of his resources being treated in accordance with regulation 3(3)(e) as being less than his requirements,", and

(ii) for "contribution assessment" there is substituted "notice of entitlement";

(b) for paragraph (5) there is substituted the following paragraph:–

" (5) A patient who is an eligible person only by virtue of regulation 3(2)(g), or only by virtue of his resources being treated in accordance with regulation 3(3)(e) as being less than his requirements, shall, on the same occasion as he presents the supplier with a voucher in accordance with paragraph (1), show a current notice of entitlement to the supplier and permit him to copy such details as may be required for the purposes of regulation 7(2)(c)(iii).".

(a) S.I. 1988/551.

(b) *See* S.I. 1987/1967, regulations 14 to 16 and S.I. 1987/1973, regulations 6 to 9.

Amendment of regulation 7 of the principal Regulations

5. In regulation 7 of the principal Regulations (payments to suppliers):–

(a) in paragraph (1) for "The responsible authority" there is substituted "Except where it was the supplier, the responsible authority";

(b) in paragraph (2)(c)–

(i) in head (ii) after "responsible authority" there is inserted "within the period of three months beginning with the date of supply of the optical appliance", and

(ii) for head (iii) there is substituted the following:–

"(iii) where the patient has shown a notice of entitlement to him, informed the responsible authority of the amount of the patient's contribution, if any".

Amendment of regulation 8 of the principal Regulations

6. In regulation 8 of the principal Regulations (payments in health authority cases)–

(a) in paragraph (1)(a) for "regulation 3(3)(c)" there is substituted "regulation 3(2)(g), or by virtue of his resources being treated in accordance with regulation 3(3)(e) as being less than his requirements,";

(b) in paragraphs (1)(b) and (2)(a) for "contribution assessment" there is substituted in each case "notice of entitlement"; and

(c) in paragraph (2)(c)–

(i) for "six months" there is substituted "one month", and

(ii) for head (ii) there is substituted the following:–

"(ii) a statement of the amount of his patient's contribution, if any,".

Amendment of regulation 9 of the principal Regulations

7. In regulation 9 of the principal Regulations (redemption value of voucher), in paragraph (2) for "regulation 3(3)(c)" there is substituted "regulation 3(2)(g)".

Savings and transitional

8.—(1) Nothing in these Regulations shall prevent the use of a voucher duly issued to a person before 11th April 1988 in accordance with the principal Regulations.

(2) A contribution assessment issued before 11th April 1988, pursuant to regulation 6(4) and (5) of the principal Regulations, to a person to whom a voucher was issued before that date may be used in accordance with the provisions of the principal Regulations as in force immediately before that date.

(3) A person who, immediately before 11th April 1988, was an eligible person for the purposes of the principal Regulations by virtue of the issue to him of an exemption certificate pursuant to regulation 7(1)(i) of the National Health Service (Charges for Drugs and Appliances) Regulations 1980**(a)** shall continue to be an eligible person for those purposes for so long as that certificate remains in force.

(4) Regulation 5(b)(i) of these Regulations shall not affect a claim for payment under regulation 7 of the principal Regulations in so far as it relates to the supply of an optical appliance before 11th April 1988.

(5) Notwithstanding regulation 6(c)(i) of these Regulations, an application under regulation 8(2)(c) of the principal Regulations for a payment in respect of an optical appliance supplied before 11th April 1988 may be made within six months of the date of its supply.

Revocation

9. Schedule 2 to the principal Regulations is revoked.

Signed by authority of the Secretary of State for Social Services.

Tony Newton
Minister of State,
Department of Health and Social Security

21st March 1988

(a) S.I. 1980/1503; the relevant amending instrument is S.I. 1983/306.

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations amend the National Health Service (Payments for Optical Appliances) Regulations 1986 which provide for payments to be made, by means of a voucher system, in respect of the cost incurred by certain categories of persons for the supply of optical appliances following a testing of sight under the National Health Service in England and Wales.

These Regulations substitute some categories of persons eligible for vouchers. Eligibility for those entitled to supplementary benefit, family income supplement, welfare food or exemption from prescription charges and for those entitled under a special means test is replaced by eligibility for those entitled to income support or to family credit (which replace supplementary benefit and family income supplement respectively) or to full or partial remission of certain National Health Service charges.

These Regulations make other associated minor changes and contain saving and transitional provision. They also add a requirement on a supplier who has accepted a voucher in connection with the supply of an optical appliance to submit his claim for reimbursement within three months of the supply (regulation 5(b)(i)), and alter the period within which patients whose sight has been tested by a health authority may, in certain circumstances, apply for a refund in respect of unused vouchers from six months to one month after the supply of the optical appliance (regulation 6(c)(i)).

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