STATUTORY INSTRUMENTS

1974 No. 1377

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service (Remission of Charges) Regulations 1974

Made - - -	13*th August* 1974
Laid before Parliament	23*rd August* 1974
Coming into Operation	1*st November* 1974

The Secretary of State for Social Services in exercise of powers conferred by section 3(2)(*b*) (as amended by section 39(1) of the Health Services and Public Health Act 1968(**a**) and section 57(1) of and paragraph 12(1) of Schedule 4 to the National Health Service Reorganisation Act 1973(**b**)) and section 44(1)(*b*) (as amended by the said section. 39(1)) of the National Health Service Act 1946(**c**) and section 1(2) of the National Health Service Act 1952(**d**) and now vested in her (**e**) and of powers conferred on her by sections 50(1) and 56(4) of the said Act of 1973, and of all other powers enabling her in that behalf, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the National Health Service (Remission of Charges) Regulations 1974 and shall come into operation on 1st November 1974.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

"the Act" means the National Health Service Act 1946;

"the Act of 1951" means the National Health Service Act 1951(**f**);

"the Act of 1952" means the National Health Service Act 1952;

"the Act of 1973" means the National Health Service Reorganisation Act 1973;

"children's glasses" has the meaning assigned to it by the Schedule to the Act of 1951, and "children's frame" shall be construed accordingly;

"claim" means a claim for or in respect of a remission for which regulation 3 provides, and "claimant" shall be construed accordingly;

"current specified cost" has the meaning assigned to it by the Schedule to the Act of 1951;

"enactment" includes a provision in a statutory instrument;

"optical appliance" means an appliance designed to correct, remedy or relieve a defect of sight;

"remission" includes exception.

(**a**) 1968 c. 46. (**b**) 1973 c. 32. (**c**) 1946 c. 81. (**d**) 1952 c. 25.

(**e**) *See* Secretary of State for Social Services Order 1968 (S.I. 1968/1699; 1968 III, p. 4585) Article 2. (**f**) 1951 c. 31.

(2) Unless the context otherwise requires, references in these regulations to an enactment shall be construed as references to that enactment as amended by any subsequent enactment.

(3) Unless the context otherwise requires, any reference in these regulations to a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**a**) shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

Remission of charges

3. A person to whom this regulation applies shall, subject to regulations 5 and 7—

(*a*) be excepted from liability for any charges which are payable apart from this regulation by him by virtue of regulations made under section 3(2)(*b*) and section 44(1)(*b*) of the Act; and

(*b*) have remitted any charges which are payable apart from this regulation by him in pursuance of section 1 of the Act of 1951 and sections 1 and 2 of the Act of 1952.

Application of remission

4. Regulation 3 applies—

(*a*) to a person, being a member of a family for which a family income supplement is payable under the Family Income Supplements Act 1970(**b**), the weekly amount of whose income, calculated as at the date that the claim for that supplement was made or treated as made and in like manner as a person's normal gross income is computed pursuant to regulations made under section 4(2) of that Act, is at a weekly rate less than the amount prescribed in relation to that family in or under section 2 of that Act;

(*b*) to a person—

(i) belonging to a family a member of which is receiving free of charge, welfare food under the Welfare Food Order 1971(**c**), as amended (**d**), and

(ii) the weekly amount of whose income, calculated under the provisions of Article 3 of that Order as at the date of the application for that food as if it were his resources, is at a weekly rate less than the weekly amount of his requirements as so calculated;

(*c*) to a person during the validity of an exemption certificate issued for him by the Secretary of State under the provisions of regulation 6(1)(*i*) of the National Health Service (Charges for Drugs and Appliances) Regulations 1974(**e**), as amended (**f**), the weekly amount of whose income, calculated under the provisions of that regulation as at the date of the issue of that certificate and as if it were his resources, is at a weekly rate less than the weekly amount of his requirements as so calculated; and

(**a**) 1889 c. 63. (**b**) 1970 c. 55. (**c**) S.I. 1971/457 (1971 I, p. 1358).

(**d**) The relevant amending instrument is S.I. 1973/289 (1973 I, p. 1041).

(**e**) S.I. 1974/285 (1974 I, p. 982).

(**f**) The amendment does not relate expressly to the subject matter of these regulations.

(*d*) to a person the weekly amount of whose income calculated pursuant to a claim and under regulation 6 as if it were his resources, is at a weekly rate less than the sum of the weekly amount of his requirements as so calculated and one third of the amount of the charge to which the claim relates.

Restrictions on remission

5.—(1) The remission of charges for which regulation 3 provides shall not apply—

(*a*) to charges in respect of the supply, replacement or repair of any optical appliance other than children's glasses or an optical appliance which is clinically necessary, payable by a person who was, at the time of the examination or testing of sight leading to the supply of the optical appliance or of the first such examination or testing, under sixteen years of age or receiving full time instruction in a school within the meaning of the Education Act 1944(**a**) or the Education (Scotland) Act 1962(**b**);

(*b*) to so much of the charge for the whole or part of a frame supplied or replaced as part of an optical appliance (except where such frame so supplied or replaced or the frame part of which is so replaced is clinically necessary) as exceeds the appropriate charge for the whole or corresponding part of the frame (other than a children's frame) which has the lowest current specified cost;

(*c*) to charges for the replacement of a dental appliance in cases where it is determined under regulation 21 of the National Health Service (General Dental Services) Regulations 1973(**c**), as amended (**d**), that the replacement is necessitated by an act or omission on the part of the patient or (if it occurred when he was under sixteen years of age) of his or of the person having charge of him when it occurred.

(2) (*a*) In a case to which regulation 4(*d*) applies, and subject to the provisions of paragraph (1), the remission of charges for which regulation 3 provides shall be limited in respect of a claimant to the amount, if any, by which the sum of his claims (including those of any person whose requirements and resources are, pursuant to the calculation hereinafter referred to, aggregated with his) in a claims period, exceeds three times the amount by which his resources as calculated by the Secretary of State in accordance with the provisions of regulation 6 exceed his requirements as so calculated.

(*b*) In this paragraph, in relation to a claimant, a claims period means a period of 21 days commencing with the day on which a claim is made, so however that no claims period shall commence until any previous claims period has expired.

Calculation of resources and requirements

6.—(1) For the purposes of regulation 4(*d*), the requirements and resources of a claimant shall be determined by the Secretary of State as if they fell to be determined in accordance with the provisions of paragraphs 3, 7, 8, 8A(1)(*a*), 8A(1)(*b*)(i), 8A(1)(*c*), 9, 10, 12, 13 and 15 to 23(1) and 24 to 29 of Schedule 2 to the Ministry of Social Security Act 1966(**e**) and as if—

(**a**) 1944 c. 31. (**b**) 1962 c. 47. (**c**) S.I. 1973/1468 (1973 II , p. 4445).

(**d**) S.I. 1974/53 (1974 I, p. 193).

(e) 1966 c. 20 which by virtue of section 99(18) of the Social Security Act 1973 (c. 38) may also be cited as the Supplementary Benefit Act 1966.

(*a*) in sub-paragraph (1)(*a*) of paragraph 23 of the said Schedule (which relates to the calculation of weekly earnings) for "£1·00" there were substituted "£2·00"; and

(*b*) the claimant's requirements were deemed to include—

(i) the sum of £1·50;

(ii) such amounts in respect of mortgage repayments as the Secretary of State may allow;

(iii) subject to the provisions of paragraph (2), such amounts in respect of hire purchase repayments as the Secretary of State may allow; and

(iv) subject to the provisions of paragraph (2), such further amounts as the Secretary of State may in special circumstances allow.

(2) (*a*) In determining what, if any, amount to allow under paragraph (1)(*b*)(iii) or (1)(*b*)(iv), where an amount which falls to be included under paragraph 9 or 10 of the said Schedule is preceded by the symbol "(*b*)" or "(*c*)", an amount under the said paragraph (1)(*b*)(iii) or (1)(*b*)(iv) shall be allowed only to the extent that it exceeds the sums mentioned in paragraphs 8A(2)(*b*)(i) and (ii) respectively of the said Schedule, subject to the provisions of sub-paragraph (3) of the said paragraph 8A.

(*b*) Where by virtue of paragraph 3 of the said Schedule the requirements and resources of the claimant would be aggregated with those of some other person, their requirements and resources when determined as aforesaid, shall be aggregated and shall be treated as if they were those of the claimant.

Conditions of remission

7.—(1) Any claim for the remission of a charge for which regulation 3 provides shall be made by or on behalf of the claimant on a form provided for the purpose by or on behalf of the Secretary of State.

(2) It shall be a condition of the remission of such a charge that the claimant shall, if the Secretary of State so requires, produce in support of his claim thereto such evidence as the Secretary of State may specify.

Repayments

8.—(1) Subject to the following provisions of this regulation, a claimant shall be entitled to repayment of any charge paid by or in respect of him for the remission of which regulation 3 provides if at the time the charge was paid, that regulation applied to him.

(2) Any claim for a repayment of such a charge shall be made within six months after the date on which the charge was paid.

(3) Any claim for a repayment of such a charge shall be accompanied by the relevant receipt and shall be made on a form provided for the purpose by or on behalf of the Secretary of State, which shall be duly completed and signed by or on behalf of the claimant.

(4) It shall be a condition of the repayment of such a charge that the claimant shall if the Secretary of State so requires, produce in support of his claim thereto such evidence as the Secretary of State may specify.

Revocation

9. Sub-paragraphs (*b*) and (*c*) of regulation 5(2) of the National Health Service (Charges) Regulations 1971(**a**) and paragraph (3) of regulation 16 of the National Health Service (General Opthalmic Services) Regulations 1974(**b**) shall cease to have effect.

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

David A. L. Owen,
Minister of State,
Department of Health and Social Security.

13th August 1974.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These regulations provide for the remission to persons whose income is low of certain charges which may be made and recovered under the provisions of the National Health Service Acts 1946, 1951 and 1952. The charges are those for the supply and, in certain circumstances for the replacement and repair, of dental, optical and certain other appliances. Provision is also made for the repayment of charges inadvertently paid and for limiting the amount of remission in certain cases.

(a) S.I. 1971/340 (1971 I, p. 1067). (b) S.I. 1974/287 (1974 I, p. 994).

SI 1974/1377
ISBN 0-11-041377-6

