1960 No. 1283

The National Insurance (Hospital In-Patients) Amendment Regulations, 1960

Made - - - -	*25th July*, 1960
Laid before Parliament	*29th July*, 1960
Coming into Operation	*19th September*, 1960

The National Insurance Joint Authority(**a**), in conjunction with the Treasury, in exercise of powers conferred by section 30 of the National Insurance Act, 1946(**b**), and of all other powers enabling them in that behalf, after considering the report of the National Insurance Advisory Committee on the preliminary draft submitted to them, hereby make the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Hospital In-Patients) Amendment Regulations, 1960, shall be read as one with the National Insurance (Hospital In-Patients) Regulations, 1949(**c**), as amended(**d**) (hereinafter referred to as "the principal regulations") and shall come into operation on the 19th September, 1960.

Amendment of regulation 1 of the principal regulations

2.—(1) The definition of "prescribed accommodation"(**e**) in paragraph (2) of regulation 1 of the principal regulations (which paragraph makes provision for their interpretation) shall be amended in accordance with the next following paragraph and shall accordingly have effect as set out in the First Schedule to these regulations.

(2) The words "the Minister of Pensions" in the said definition shall be omitted and, for the words "as aforesaid", there shall be substituted the words "under the National Health Service Act, 1946(**f**), or the National Health Service (Scotland) Act, 1947(**g**)".

(3) The definition of "hospital or similar institution" and the definition of "free in-patient treatment" in the said paragraph (2) shall be omitted.

(4) After the said paragraph (2), there shall be inserted the following paragraph:—

"(2A) For the purposes of these regulations, a person shall be regarded as receiving or having received free in-patient treatment for any period

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(**a**) *See* National Insurance Act, 1946, s. 63 (2) and National Insurance (Northern Ireland Reciprocal Arrangements) Regulations, 1948 (S.I. 1948/211 (Rev. XVI, p. 367: 1948 I, p. 2905)).
(**b**) 9 & 10 Geo. 6. c. 67.
(**c**) S.I. 1949/1461 (1949 I, p. 2718).
(**d**) For the relevant amendments, *see* S.I. 1952/2179, 1957/1849, 2077 (1952 II. p. 2147; 1957 I, pp. 1546, 1556).
(**e**) *See* S.I. 1952/2179 (1952 II, p. 2147) reg. 2.
(**f**) 9 & 10 Geo. 6. c. 81. (**g**) 10 & 11 Geo. 6. c. 27.

for which he is or has been maintained free of charge while undergoing medical or other treatment as an in-patient—

(*a*) in a hospital or similar institution maintained or adminstered under the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947, or by or on behalf of the Minister of Health or in Scotland the Secretary of State, or by or on behalf of the Admiralty, the Army Council or the Air Council; or

(*b*) pursuant to arrangements made by the Minister of Health or by a regional hospital board constituted under the said Act of 1946 or the said Act of 1947, in a hospital or similar institution not so maintained or administered;

and, for this purpose, a person shall only be regarded as not being maintained free of charge in a hospital or similar institution for any period if he is paying or has paid, in respect of his maintenance, charges which are designed to cover the whole cost of the accommodation or services (other than services by way of treatment) provided for him in the hospital or similar institution for that period."

Amendment of regulation 6A *of the principal regulations*

3.—(1) Regulation 6A(a) of the principal regulations (which regulation makes provision as to the payment of benefit payable subject to discharge from a hospital or similar institution) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the Second Schedule to these regulations.

(2) In paragraph (*b*) of the proviso to paragraph (2) of the said regulation 6A (which paragraph of the said proviso makes provision for cases in which a person, after having received free in-patient treatment and been discharged from the hospital or similar institution, again receives such treatment), after the word "where", there shall be inserted the words "after an interval of more than twenty-eight days".

Regulation added to the principal regulations

4. In Part III of the principal regulations (which contains supplementary provisions), after regulation 6B(a) thereof, there shall be inserted the following regulation:—

"*Adjustment, or further adjustment, of benefit in certain cases*

6C.—(1) This regulation applies in relation to—

(*a*) any personal benefit by way of sickness benefit, widow's benefit or retirement pension (not being personal benefit which, by virtue of an application such as is mentioned in paragraph (2) of regulation 5 of these regulations, is payable on behalf of the beneficiary to or for the benefit of the dependant or any personal benefit which, by virtue of the provisions of sub-paragraph (*b*) of paragraph (3) of that regulation, is not payable unless and until the beneficiary is discharged from a hospital or similar institution) which, but for the provisions of this regulation, would be payable to the beneficiary, and

(*b*) any dependency benefit (not being dependency benefit which, by virtue of an application such as is mentioned in sub-paragraph (*a*) of paragraph (4) of regulation 6 of these regulations, is payable for the benefit of a child or which, by virtue of such an application and

(a) *See* S.I. 1957/1849 (1957 I, p. 1546) reg. 5.

the provisions of sub-paragraph (*c*) of the said paragraph (4), is payable to the beneficiary's wife or husband subject to her or his being discharged from a hospital or similar institution) which, but for the provisions of this regulation, would be payable in respect of the beneficiary's wife or husband,

for a period for which, in the case of personal benefit, the beneficiary, or, in the case of dependency benefit, each of the beneficiary and the beneficiary's wife or husband, is receiving free in-patient treatment after having received that treatment continuously for a period of not less than fifty-two weeks; and, in relation to such benefit, the beneficiary, or, in the case of dependency benefit, the beneficiary's wife or husband, is hereafter in this regulation referred to as "the patient".

(2) The weekly rate of any benefit in relation to which this regulation applies shall be reduced for any period for which there is in operation a certificate in writing, given by a medical officer who, at the time when it was given, was treating the patient, showing that, in the opinion of that officer, either no sum or no more than a specified weekly sum (being a weekly sum which is less than the weekly rate of that benefit) can be applied by or on behalf of the patient for his personal comfort or enjoyment; and the reduction of the weekly rate of that benefit to be made in accordance with the foregoing provisions of this paragraph shall be such that that benefit is not payable or, as the case may be, it is payable at a weekly rate equal to the weekly sum specified in the certificate.

(3) A certificate such as is referred to in the last foregoing paragraph shall operate from the date on which it is furnished to the Minister and shall continue in operation unless and until either the Minister receives a notice in writing, given by a medical officer who, at the time when it was given, was treating the patient, stating that the certificate is revoked or another such certificate, relating to the same patient, comes into operation.

(4) In relation to any personal benefit, the foregoing provisions of this regulation shall apply only as respects any period during which the beneficiary is unable to act and benefit to which he is entitled is payable, on his behalf, to the body or authority responsible for the management and control of the hospital or similar institution in which he is receiving treatment and is so payable to that body or authority either as a person or persons empowered to act on behalf of the beneficiary by virtue of an appointment made by the Minister or pursuant to a request made to the Minister by a person so empowered.

(5) Notwithstanding the foregoing provisions of this regulation, any benefit which, by reason only of the application of those provisions, would not be payable to or in respect of the patient shall be payable subject to and in accordance with the following provisions:—

(*a*) Such benefit shall not be payable unless and until the patient is discharged from the hospital or similar institution.

(*b*) If, as respects any benefit in relation to which this regulation applies, reductions have been made in accordance with the provisions of paragraph (2) of this regulation for more than fifty-two weeks, the amount payable in respect of that benefit by virtue of this paragraph shall not exceed the aggregate amount of the reductions so made for the first fifty-two of those weeks.

(6) If and in so far as an application made in accordance with the provisions of paragraph (6) of regulation 6 of these regulations relates to

dependency benefit which would be payable but for any reduction falling to be made in accordance with the provisions of paragraph (2) of this regulation, it shall have effect as if it were an application made by the beneficiary to the Minister for the payment of that dependency benefit to the dependant subject to the dependant's being discharged from the hospital or similar institution and subject also to the provisions of regulation 6A of these regulations.

(7) The references in paragraph (4) of regulation 6 of these regulations to benefit which would be payable but for that regulation, and the reference in paragraph (6) of that regulation to benefit which would be payable but for the provisions of that paragraph, shall be construed as if this regulation had not been made."

Revocation of regulation 10 *of the principal regulations*

5. Regulation 10 of the principal regulations (which contains provisions for determining whether maintenance is free of charge) shall cease to have effect.

Given under the Official Seal of the National Insurance Joint Authority this Twenty-fifth day of July, 1960.

(L.S.)

D. J. Carter,
Secretary,
National Insurance Joint Authority.

Dated this Twenty-fifth day of July, 1960.

Michael Hughes-Young,
R. Chichester-Clark,
Two of the Lords Commissioners of Her Majesty's Treasury.

FIRST SCHEDULE

Regulation 2

DEFINITION OF " PRESCRIBED ACCOMMODATION " IN REGULATION 1 (2) OF THE PRINCIPAL REGULATIONS AS AMENDED*

" prescribed accommodation " means, in relation to any person, any hospital accommodation or similar accommodation in which that person is residing or has resided either as a patient or inmate or as a person in need of care and attention and wholly or partly at the cost of a local authority, the Minister of Health, the Secretary of State for Scotland or a regional hospital board constituted *under the National Health Service Act,* 1946, *or the National Health Service (Scotland) Act,* 1947, or any residential accommodation provided for that person under Part III of the National Assistance Act, 1948; but does not include any such accommodation for any period for which he is or was receiving free in-patient treatment;

* The words substituted by these regulations are shown in italics.

SECOND SCHEDULE Regulation 3

REGULATION 6A OF THE PRINCIPAL REGULATIONS AS AMENDED*

Benefit payable on discharge from a hospital or similar institution

6A.—(1) Where, by virtue of any provision of these regulations, the payment to a person (hereafter in this regulation referred to as "the payee") of any sum by way of benefit is conditional upon the payee's discharge from a hospital or similar institution, that sum (which sum or any part thereof is hereafter in this regulation referred to as "resettlement benefit") shall not be payable unless and until, after the payee's discharge from the hospital or similar institution, the payee proves, in such manner as the Minister shall require, that his discharge therefrom was effected by and with the approval of a person authorised or empowered to discharge him and that he is neither receiving free in-patient treatment nor residing in any prescribed accommodation, and in that event there shall be payable only so much resettlement benefit as is payable in accordance with the provisions of the next following paragraph.

(2) Resettlement benefit shall, during the lifetime of the payee, be payable to him by instalments not exceeding seventy shillings a week unless, having regard to the circumstances of any particular case, the Minister decides that payment by other instalments or in one sum is desirable, and any resettlement benefit which, at the payee's death, has not been paid in accordance with this provision shall not be payable:

Provided that—

(*a*) the payment of any resettlement benefit shall be suspended while the payee is again receiving free in-patient treatment or is residing in any prescribed accommodation; and

(*b*) where *after an interval of more than twenty-eight days* the payee again receives free in-patient treatment for any period, the amount of any resettlement benefit which, but for the provisions of this paragraph of this proviso, would be payable to him in respect of that period shall be reduced or extinguished by the deduction therefrom of the amount of any resettlement benefit which, at the commencement of that period, either was payable to him and was unpaid, or would have been so payable to him if he had then satisfied the conditions for the receipt thereof.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations substitute a single definition of "free in-patient treatment" for the existing definitions, in the National Insurance (Hospital In-Patients) Regulations, 1949, of "hospital or similar institution" and of "free in-patient treatment". The effect of the substitution is that the provisions for adjusting benefit will extend to patients maintained free in any hospital provided by the Minister of Health (including, as at present, any provided by him under the National Health Service or as successor to the former Minister of Pensions) or in Scotland by the Secretary of State, and to civilian patients maintained free in service hospitals.

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* The words added by these regulations are shown in italics.

The Regulations also make an additional provision for the adjustment of benefit which otherwise would be payable to or in respect of a hospital patient in certain cases where (as certified by a doctor who is treating the patient) either no sum, or no more than a weekly sum which is less than the amount of the weekly benefit otherwise payable, can be applied for the patient's personal comfort or enjoyment. The provision applies only where the patient has received free in-patient treatment for at least 52 weeks. In cases where the provision applies, the benefit which otherwise would be payable and cannot be applied for the patient's personal comfort or enjoyment is not payable immediately but will become payable (to the extent to which it would otherwise have been payable for not more than 52 weeks) to the patient in the event of his or her approved discharge from hospital.

The Regulations also confine the application of the existing provision for setting-off unpaid resettlement benefit accrued for one period of free in-patient treatment against resettlement benefit accrued for another to cases in which the interval between the two periods exceeds 28 days.

The remaining provisions are of a minor or consequential character.

The report of the National Insurance Advisory Committee on the preliminary draft of these Regulations, dated the 18th July, 1960, is contained in the House of Commons Paper No. 276 (Session 1959–60) published by Her Majesty's Stationery Office.