(3) In sub-paragraph (1) of paragraph 5 of the Second Schedule to the principal regulations, the words "maternity grant" shall be substituted for the words "maternity benefit".

Dated this 12th day of September, 1949.

James Griffiths,
Minister of National Insurance.

Wm. Hannan,
R. J. Taylor,
Two of the Lords Commissioners of His Majesty's Treasury.

SCHEDULE

PARAGRAPH (3) OF REGULATION 4 OF THE PRINCIPAL REGULATIONS, AS AMENDED

"(3) Where a person attained pensionable age within the period of twenty-six weeks commencing on the appointed day, and by the time he had attained that age had not satisfied the contribution condition for death grant contained in sub-paragraph (1) (*a*) of paragraph 5 of the Third Schedule to the Act, but thereafter further contributions have been or are paid by him, or have been or are credited to him in respect of any period commencing on or after the appointed day, which, if taken into account, would satisfy that condition, he shall be deemed to have satisfied that condition as from the 5th July, 1949, or the end of the week in respect of which the twenty-sixth contribution was so paid or credited, whichever date is the later".

EXPLANATORY NOTE

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

These regulations amend paragraph (3) of regulation 4 of the National Insurance (Death Grant) Regulations, 1949, in order to bring that paragraph into line with the terms of the National Insurance Act, 1949(a), which enables credited contributions as well as paid contributions to be taken into account for the purposes of the first contribution condition for death grant set out in paragraph 5 of the Third Schedule to the National Insurance Act, 1946.

6. HOSPITAL IN-PATIENTS

The National Insurance (Hospital In-Patients) Regulations, 1949

1949 No. 1461

Made - - - -	*29th July*, 1949
Laid before Parliament	*29th July*, 1949
Coming into Operation	*5th September*, 1949

M.N.I. 176.

The National Insurance Joint Authority, in conjunction with the Treasury, in exercise of powers conferred by Section 30 of the National Insurance Act,

(a) 12, 13 & 14 Geo. 6. c. 56.

1946(a), and of all other powers enabling them in that behalf, hereby make the following regulations :—

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Hospital In-Patients) Regulations, 1949, and shall come into operation on the 5th September, 1949.

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

" the Act " means the National Insurance Act, 1946 ;

" the Minister " means the Minister of National Insurance ;

" benefit " means benefit under the Act ;

" beneficiary " means, in relation to any benefit, the person to whom that benefit is or, but for the provisions of these regulations, would be payable ;

" personal benefit " means that benefit which, apart from these regulations, is payable to a person otherwise than in respect of another person who is a child or an adult dependant ;

" dependency benefit " means that benefit which, apart from these regulations, is payable to a person in respect of another person who is a child or an adult dependant ;

" widow's basic pension " and " contributory old age pension " have the same meanings as in the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations, 1948(b) ;

" tuberculosis patient " means a person (not being a person under treatment in a mental hospital within the meaning of the Lunacy and Mental Treatment Acts, 1890 to 1930, or the Lunacy (Scotland) Acts, 1857 to 1919, or in an institution for mental defectives under the Mental Deficiency Acts, 1913 to 1938, or the Mental Deficiency (Scotland) Acts, 1913 and 1940) who is under treatment for tuberculosis of the respiratory system ;

" hospital or similar institution " means,—

(*a*) in relation to any period before the appointed day(c), a hospital or similar institution maintained or administered by a local authority or by or on behalf of the Minister of Pensions or a hospital or similar institution not so maintained or administered in which, pursuant to arrangements made by the Minister of Pensions, accommodation and medical, nursing or other services are provided ; or

(*b*) in relation to any other period, a hospital or similar institution maintained or administered by or on behalf of the Minister of Pensions or under the National Health Service Act, 1946(d) or under the National Health Service (Scotland) Act, 1947(e), or a hospital or similar institution not so maintained or administered in which, pursuant to arrangements made by a regional hospital board constituted under either of those Acts or by the Minister of Pensions, accommodation and medical, nursing or other services are provided ;

(a) 9 & 10 Geo. 6. c. 67. (b) S.I. 1948 (No. 55) I, p. 2822.
(c) 5th July, 1948. *See* S.I. 1948 (No. 54) I, p. 2615. (d) 9 & 10 Geo. 6. c. 81.
(e) 10 & 11 Geo. 6. c. 27.

"free in-patient treatment" means, in relation to any person,—

(*a*) medical or other treatment as an in-patient in a hospital or similar institution (being an hospital or similar institution maintained or administered by a local authority or by or on behalf of the Minister of Pensions or under the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947) in which, throughout the period of that treatment, that person is or has been maintained free of charge; or

(*b*) medical or other treatment as an in-patient in a hospital or similar institution in which, throughout the period of that treatment, that person is or has been maintained free of charge pursuant to arrangements made by a regional hospital board constituted as aforesaid or by the Minister of Pensions;

and other expressions have the same meanings as in the Act.

(3) References in these regulations to any enactment or regulations shall include references to such enactment or regulations as amended by any subsequent enactment, order or regulations.

(4) The Interpretation Act, 1889(**a**), applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

PART II

ADJUSTMENT OF BENEFIT

2. The provisions of this Part of these regulations shall have effect subject to the provisions of Part III and Part IV.

Personal benefit

3.—(1) Where the conditions for the receipt of personal benefit by way of sickness benefit, widow's allowance, widowed mother's allowance, widow's pension, retirement pension, widow's basic pension or contributory old age pension are satisfied in relation to any person who receives, or has received, continuously, for a period exceeding eight weeks, free in-patient treatment, the weekly rate of that personal benefit which, but for the provisions of these regulations, would be payable for any period after the first eight weeks of that treatment shall be reduced subject to and in accordance with the following provisions of these regulations.

(2) In any case in which the provisions of paragraph (1) of this regulation apply in relation to any of the said personal benefits except widow's basic pension and contributory old age pension, the weekly rate of any reduction of that personal benefit shall, subject to the provisions of paragraph (4) of this regulation, be determined, for any part of the period of free in-patient treatment which occurs during the forty-four weeks next following the first eight weeks thereof, in accordance with the provisions of regulation 4, and, for any part of the period of that treatment which occurs after the first fifty-two weeks thereof, in accordance with the provisions of regulation 5.

(**a**) 52 & 53 Vict. c. 63.

(3) In any case in which the provisions of paragraph (1) of this regulation apply in relation to any personal benefit by way of widow's basic pension or contributory old age pension, there shall not be any reduction of that personal benefit under these regulations unless the beneficiary receives, or has received, continuously free in-patient treatment for a period exceeding fifty-two weeks, and in that event the weekly rate of any reduction of that personal benefit shall, subject to the provisions of paragraph (4) of this regulation, be determined, for any part of the period of that treatment which occurs after the first fifty-two weeks thereof and during which the beneficiary has not a dependant, in accordance with the provisions of paragraph (1) of regulation 5.

(4) In any case where a reduction of personal benefit at a rate determined in accordance with the provisions of regulation 4 or paragraph (2) or paragraph (3) of regulation 5 would reduce the rate of that personal benefit, where the beneficiary is a tuberculosis patient, to less than ten shillings a week, or, in any other case, to less than five shillings a week, the reduction of that personal benefit shall not be as so determined but shall be such (if any) as will reduce the rate of that personal benefit, where the beneficiary is a tuberculosis patient, to ten shillings a week, or, in any other case, to five shillings a week.

4. Where, by virtue of the provisions of paragraph (2) of regulation 3, the weekly rate of any reduction of personal benefit is to be determined for any period in accordance with the provisions of this regulation, that reduction shall be,—

(*a*) for any part of that period during which the beneficiary has a dependant, at the rate of five shillings a week; and

(*b*) for any other part of that period, at the rate of ten shillings a week.

5.—(1) Where, by virtue of the provisions of paragraph (2) or paragraph (3) of regulation 3, the weekly rate of any reduction of personal benefit is to be determined for any period in accordance with the provisions of this regulation, that reduction shall, subject to the following provisions of this regulation, be such (if any) as will reduce the rate of that personal benefit, where the beneficiary is a tuberculosis patient, to ten shillings a week, or, in any other case, to five shillings a week.

(2) For any part of the period referred to in paragraph (1) of this regulation during which the beneficiary has a dependant and in respect of which an application has been made by the beneficiary to the Minister to pay on behalf of the beneficiary to that dependant, or to some other person who is approved by the Minister and satisfies the Minister that he will apply it for the benefit of that dependant, so much (if any) of the personal benefit as would, but for the provisions of these regulations, be payable to the beneficiary in excess, where the beneficiary is a tuberculosis patient, of fifteen shillings a week, or, in any other case, of ten shillings a week, the reduction of personal benefit shall be at the rate of five shillings a week.

(3) (*a*) For any part of the period of free in-patient treatment which falls within the period of fifty-two weeks next following the first fifty-two weeks thereof, and during which the beneficiary has not a dependant or, if the beneficiary has a dependant, in respect of which any such application as is mentioned in paragraph (2) of this regulation has not been made, the reduction of personal benefit shall, subject to the provisions of the next following sub-paragraph, be at the rate of ten shillings a week.

(*b*) In addition to the reduction of benefit specified in the last foregoing sub-paragraph, so much (if any) of the personal benefit as would, but for the provisions of these regulations, be payable for the said part of the said period in excess, where the beneficiary is a tuberculosis patient, of twenty shillings a week, or, in any other case, of fifteen shillings a week, shall not be payable unless and until the beneficiary is discharged from the hospital or similar institution by and with the approval of a person authorised or empowered to discharge him and thereafter proves, in such manner as the Minister shall require, that he has been so discharged and is neither receiving free in-patient treatment nor residing as an inmate in an institution (not being a hospital or similar institution) administered by or under the Minister of Health or the Secretary of State for Scotland or a local authority, and in that event there shall be payable only so much thereof as is payable in accordance with the provisions of the next following sub-paragraph.

(*c*) Where a beneficiary satisfies the conditions for the receipt of any benefit to which the last preceding sub-paragraph applies, that benefit shall, during his lifetime, be payable to the beneficiary by instalments not exceeding two pounds 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 benefit which, at his death, has not been paid in accordance with this provision shall not be payable.

Condition for the receipt of dependency benefit in certain cases

6. Where, apart from this regulation, the conditions for the receipt of dependency benefit by way of sickness benefit, widow's allowance, widowed mother's allowance or retirement pension are satisfied in relation to any person who receives, or has received, continuously, for a period exceeding fifty-two weeks, free in-patient treatment, that dependency benefit shall not be payable for any part of the period of free in-patient treatment which occurs after the first fifty-two weeks thereof and in respect of which an application has not been made by the beneficiary to the Minister to pay on behalf of the beneficiary that dependency benefit to the person in respect of whom it is or would be payable or to some other person who is approved by the Minister and satisfies the Minister that he will apply it for the benefit of that dependant.

PART III

SUPPLEMENTARY PROVISIONS

Division of widowed mother's allowance into dependency benefit and personal benefit

7. For the purposes of these regulations, where any benefit by way of widowed mother's allowance is or may be payable to a widow by reason of her having a family which includes a child or children, that benefit shall be deemed to consist of—

(*a*) dependency benefit by way of widowed mother's allowance payable to the widow in respect of that child or the elder or eldest of those children at the weekly rate of seven shillings and sixpence; and

(*b*) personal benefit by way of widowed mother's allowance payable to the widow otherwise than in respect of any child at the weekly rate at which the benefit by way of widowed mother's allowance is or may be payable reduced by seven shillings and sixpence a week.

Persons constituting "dependants"

8. For the purposes of these regulations, a beneficiary shall be regarded as having a dependant for any period if, but only if, for that period either—

(*a*) any dependency benefit is payable to the beneficiary (or to some other person on his behalf) or, but for the operation of the National Insurance (Overlapping Benefits) Regulations, 1948(**a**), and the provisions of regulation 6, would, subject to his satisfying the condition of making a claim therefor, be payable to the beneficiary; or

(*b*) an increase of benefit would, but for the provisions of regulation 6 and subject as aforesaid, be payable to the beneficiary in respect of an adult dependant, if any earnings of that dependant were disregarded otherwise than for the purpose of ascertaining whether or not the beneficiary is or has been wholly or mainly maintaining that dependant; or

(*c*) an increase of benefit would, but for the provisions of regulation 6 and subject as aforesaid, be payable to the beneficiary in respect of his wife for any period in respect of which a retirement pension is payable to her, if she had not attained pensionable age(**b**) and any earnings of the wife were disregarded otherwise than for the purpose of ascertaining whether or not the beneficiary is or has been wholly or mainly maintaining her; or

(*d*) a retirement pension is payable to the beneficiary (being the wife of a man to whom a retirement pension is payable in respect of that period) and the beneficiary would, for the purposes of the Act, be regarded as residing with her husband;

and, in relation to a beneficiary who is regarded as having a dependant by virtue of the provisions of paragraph (*a*), (*b*) or (*c*) of this regulation, a person in respect of whom any dependency benefit is or, but for any provision or condition mentioned in that paragraph would be payable to the beneficiary (or to some other person on his behalf) shall, for the purposes of these regulations, be regarded as a dependant, and, in relation to a married woman who is regarded as having a dependant by virtue of the provisions of paragraph (*d*) of this regulation, her husband shall, for those purposes, be regarded as a dependant.

Two increases of the same benefit to be treated as separate benefits

9. For the purposes of these regulations, in any case where dependency benefit by way of increases of benefit in respect of a child and of an adult dependant is or, but for the provisions of these regulations, would be payable, each of such increases of benefit shall be treated as a separate benefit.

Provisions for determining whether maintenance is free of charge

10. A person who, for the purpose of receiving medical treatment as an in-patient, avails himself of the hospital services provided by or on behalf of the Minister of Pensions or under Part II of the National Health Service Act, 1946, or of the National Health Service (Scotland) Act, 1947, shall only be regarded as not being maintained free of charge for the purposes of these regulations 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 that person as part of the said hospital services.

Persons maintained, otherwise than temporarily, in certain institutions

11. For the purpose of paragraph (2) of regulation 12, any person who is or has been maintained in an institution (not being a hospital or similar

(**a**) S.I. 1948 (No. 2711) I, p. 2657. (**b**) *See* s. 78 (1), National Insurance Act, 1946.

institution) administered by or under the Minister of Health or the Secretary of State for Scotland or a local authority and in relation to whom it has been decided by the appropriate authority that he shall be maintained there otherwise than temporarily, shall be regarded as having resided there for a period of fifty-two weeks.

Calculation of periods

12.—(1) For the purpose of calculating any period mentioned in Part II or Part IV of these regulations, but for no other purpose, the following provisions of this regulation shall apply.

(2) Where a person has entered a hospital or similar institution for the purpose of receiving there medical or other treatment as an in-patient after having ceased to reside as an inmate in an institution (not being a hospital or similar institution) administered by or under the Minister of Health or the Secretary of State for Scotland or a local authority, he shall be regarded as having received free in-patient treatment throughout the period during which he so resided.

(3) Where a person has received (or is regarded under this regulation as having received) free in-patient treatment for two or more distinct periods separated by a temporary interval or temporary intervals, he shall be regarded as having received such treatment continuously for a period, equal in duration to the total of such distinct periods, ending on the last day of the latter or last of such periods; and, for this purpose, the expression " temporary interval " means a period not exceeding twenty-eight days.

Priority of adjustments

13. Where any benefit in relation to which these regulations apply falls to be adjusted in accordance with the provisions of the National Insurance (Overlapping Benefits) Regulations, 1948, the benefit as so adjusted in accordance with those provisions shall be the relevant benefit for the purposes of the provisions of these regulations.

PART IV

TRANSITIONAL PROVISIONS

14.—(1) In the application of the provisions of these regulations in relation to a person who is receiving (or, by virtue of the provisions of regulation 12, is regarded as receiving) free in-patient treatment immediately before the date of their coming into operation, those provisions shall, in respect of the period of in-patient treatment then current or regarded as then current, have effect as if,—

(*a*) in paragraph (2) of regulation 3, for the words " forty-four weeks ", there were substituted the words " fifty-two weeks ";

(*b*) in paragraph (2) and paragraph (3) of regulation 3, in regulation 6 and in regulation 11, for the words " fifty-two weeks " (wherever those words occur), there were substituted the words " sixty weeks "; and

(*c*) in sub-paragraph (*a*) of paragraph (3) of regulation 5, for the words " which falls within the period of fifty-two weeks next following the first fifty-two weeks thereof ", there were substituted the words " which falls within the period of forty-four weeks next following the first sixty weeks thereof ".

(2) In the application of the said provisions in relation to a person who, immediately before the date of the coming into operation of these regulations, has been receiving free in-patient treatment for a continuous period exceeding sixty weeks, those provisions (as modified by paragraph (1) of this regulation)

shall have effect as if the period of that free in-patient treatment had commenced sixty weeks before the said date.

(3) In the application of the said provisions in relation to a person who, immediately before the appointed day, was entitled to any sum by virtue of the provisions of subsection (3) of section 55 of the National Health Insurance Act, 1936(a) (which relates to the payment of benefit under that Act to a person after he has left an institution) and subsequently satisfies the conditions specified in sub-paragraph (*b*) of paragraph (3) of regulation 5 for the receipt of any personal benefit to which that sub-paragraph applies, and has been receiving free in-patient treatment throughout the period from that day to the date of his discharge from the hospital or similar institution, it shall be a further condition that there shall be payable only so much (if any) of the amount of that personal benefit as does not exceed the amount (if any) by which fifty pounds exceeds the said sum, and that no part of that amount shall become payable until after payment to the beneficiary of the said sum.

PART V

REVOCATION OF PROVISIONAL REGULATIONS

15. The provisions of the National Insurance (Overlapping Benefits) Provisional Regulations, 1948(b), not revoked by the National Insurance (Overlapping Benefits) Regulations, 1948, are hereby revoked but without prejudice to anything duly done or suffered, or to any right, privilege, obligation or liability acquired, accrued or incurred, thereunder.

Given under the official seal of the National Insurance Joint Authority this 29th day of July, nineteen hundred and forty-nine.

S. S. Menneer,
Secretary,
National Insurance Joint Authority.

R. J. Taylor,
Richard Adams,
Two of the Lords Commissioners of
His Majesty's Treasury.

EXPLANATORY NOTE

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

These Regulations revoke (and replace with amendments) Part III of the National Insurance (Overlapping Benefits) Provisional Regulations, 1948, and so much of Part I thereof as relates to Part III. They provide (Part II) for adjusting some of the benefits payable under the National Insurance Act, 1946, and the conditions for the receipt of those benefits, where (after an initial period not affected by these Regulations) the beneficiary is being maintained free of charge in hospital (normally, under the National Health Service Acts or by the Minister of Pensions). Part III contains supplementary provisions for the application of the provisions of Part II, and Part IV deals with transitional cases.

The preliminary draft of these Regulations was submitted to the National Insurance Advisory Committee in accordance with Section 77 of the National Insurance Act, 1946, and their report thereon, dated the 6th July, 1949, is contained in the House of Commons Paper No. 241, published by His Majesty's Stationery Office.

(a) 26 Geo. 5 & 1 Edw. 8. c. 32. (b) S.I. 1948 (No. 1244) I, p. 2652.