

## 1989 No. 113

## HEALTH AND PERSONAL SOCIAL SERVICES

**General Ophthalmic Services (Amendment)  
Regulations (Northern Ireland) 1989**

*Made* . . . . . 30th March 1989

*Coming into operation* . . . . . 1st April 1989

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 62, 106 and 107(6) of the Health and Personal Social Services (Northern Ireland) Order 1972(a) and of all other powers enabling it in that behalf, and in conjunction with the Department of Finance and Personnel(b) and after consultation with such organisations as appeared to the Department to be representative of medical practitioners practising as ophthalmic medical practitioners and ophthalmic opticians, as required by Article 62(3) of the said Order, hereby makes the following regulations:

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 1989 and shall come into operation on 1st April 1989.

(2) In these regulations, the “principal regulations” means the General Ophthalmic Services Regulations (Northern Ireland) 1986(c).

*Amendment of regulation 2 of the principal regulations*

2. In regulation 2(1) of the principal regulations (interpretation)—

(a) after the definition of “Board” there is inserted the following definition:—

“ “capital limit” means the amount prescribed for the purposes of Article 23(6) of the Social Security (Northern Ireland) Order 1986(d) as it applies to income support;”;

(b) after the definition of “Committee” there is inserted the following definition:—

“ “complex appliance” means an optical appliance at least one lens of which—

(i) has a power in any meridian of plus or minus 10 or more dioptries, or

(ii) is a lenticular lens;”;

(a) S.I. 1972/1265 (N.I. 14). As amended by S.I. 1984/1158 (N.I. 8) and S.I. 1988/2249 (N.I. 24)

(b) Formerly Department of Finance: *see* S.I. 1982/338 (N.I. 6) Art. 3

(c) S.R. 1986 No. 163. As amended by S.R. 1988 No. 110

(d) S.I. 1986/1888 (N.I. 18); regulation 45 of the Income Support (General) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 459) has prescribed the amount of £6,000 as the capital limit

(c) after the definition of "doctor" there are inserted the following definitions:—

“ “eligible person” means a person who, in accordance with regulation 15, may have his sight tested under general ophthalmic services;

“family credit” means family credit under Part III of the Social Security (Northern Ireland) Order 1986;

“general ophthalmic services” means the services which a contractor must provide pursuant to paragraph 10 of the terms of service;

“income support” means income support under Part III of the Social Security (Northern Ireland) Order 1986 and includes personal expenses addition, special transition addition and transitional addition as defined in regulation 2(1) of the Income Support (Transitional) Regulations (Northern Ireland) 1987(a);”;

(d) after the definition of “Medical Card” 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 Order;”;

(e) after the definition of “qualifications” there is inserted the following definitions:—

“ “qualifying full-time education” means full-time instruction at a recognised educational establishment or by other means accepted as comparable by the Department and “recognised educational establishment” means an establishment recognised by the Department as being, or as comparable to, a school, college or university;

“the Remission Regulations” means the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1988(b) and a reference to those regulations is to be construed as a reference to them as they have effect on the making of the General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 1989 and as amended subsequently;”;

(f) the definition of “sight test” is omitted.

#### *Amendment of regulation 14 of the principal regulations*

3. In regulation 14 of the principal regulations (payment for services) after paragraph (1) there is inserted—

“(1A) Where in accordance with regulation 13B(4) the Agency has paid to a patient in respect of a testing of sight an amount which exceeds the fee payable to the contractor, in accordance with the Statement, for that testing, it shall deduct the excess from remuneration otherwise payable to the contractor.”.

(a) S.R. 1987 No. 460

(b) S.R. 1988 No. 150

*Substitution of regulation 15 of the principal regulations*

4. For regulation 15 (sight tests) of the principal regulations there are substituted the following regulations—

*“Sight Tests — eligibility*

15.—(1) A person may have his sight tested under general ophthalmic services if, at the time of the testing of sight, he is any of the following—

- (a) a person who is under the age of 16 years;
- (b) a person who is under the age of 19 years and receiving qualifying full-time education;
- (c) a person whose resources are treated in accordance with paragraph (2) as being less than, or equal to, his requirements;
- (d) a person who requires to wear a complex appliance;
- (e) a person who is registered blind or partially sighted under section 1 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978(a);
- (f) a person who has been diagnosed as suffering from diabetes or glaucoma;
- (g) a person who is aged 40 or over and is the parent, brother, sister or child of a person who has been diagnosed as suffering from glaucoma.

(2) A person's resources shall be treated as being less than or equal to 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;
- (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 Order are less than or equal to his requirements as so calculated and his capital resources as so calculated do not exceed the capital limit; or
- (f) he is a member of the same family as a person described in paragraph (e).

(3) In paragraph (2)(b) and (f) “family” has the meaning assigned to it by Article 21(11) of the Social Security (Northern Ireland) Order 1986 as it applies to income support(b) and in paragraph 2(d) it has the meaning assigned to it by Article 21(11) of that Order as it applies to family credit(c).

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(a) 1978 c. 53

(b) See S.R. 1987 No. 459, regulation 14 to 16

(c) See S.R. 1987 No. 463, regulations 6 to 9

*Sight tests — applications*

15A.—(1) An eligible person who wishes to have his sight tested under general ophthalmic services may make an application to any contractor for his sight to be tested.

(2) The application shall be made on a form provided for that purpose to contractors by the Agency and shall contain a written declaration signed by the applicant to the effect that he is an eligible person.

(3) In addition, a person who is an eligible person—

- (a) but only by virtue of regulation 15(1)(c) and (2)(e) or (f) shall show to the contractor a current notice of entitlement;
- (b) but only by virtue of regulation 15(1)(d), shall show to the contractor the prescription for a complex appliance issued to him on the occasion when his sight was last tested;
- (c) but only by virtue of paragraph 15(1)(f), shall on a form provided for that purpose to contractors by the Agency provide the contractor with the name and address of his doctor and give his consent to the Agency seeking confirmation of his diabetes or glaucoma from his doctor.

(4) A contractor to whom an application for a testing of sight is made shall, before making any test of the person's sight—

- (a) subject to paragraph (5), satisfy himself that the person is an eligible person and that the requirements of paragraph (2) and such of the requirements of paragraph (3) as are applicable are met;
- (b) ensure that particulars of the patient and the approximate date of the last testing, if any, of his sight are inserted in a sight test form by the patient or on his behalf; and
- (c) satisfy himself that the testing of sight is necessary.

(5) Where an eligible person to whom paragraph (3)(b) applies is unable to meet its requirements, the contractor may, instead of satisfying himself that these requirements are met, satisfy himself that the person is an eligible person by referring to his own records or by measuring the power of the lenses of the person's existing optical appliance by means of a focimeter or other suitable means.

*Sight test treated as a test under general ophthalmic services*

15B.—(1) A person whose sight is tested by a contractor but who was not an eligible person immediately before the testing and—

- (a) who is shown during the testing to fall within the description specified in sub-paragraph (d) of regulation 15(1); or
- (b) who is shown, in accordance with paragraph (3), within 3 months after the testing to fall within either of the descriptions specified in sub-paragraphs (e) or (f) of regulation 15(2),

shall be taken for the purposes of the testing to have so fallen immediately before his sight was tested.

(2) Where paragraph (1) applies the testing shall be treated as a testing of sight under the Order for the purposes of regulation 8(1)(a) of the

Optical Charges and Payments Regulations (Northern Ireland) 1989(a) as well as for the purposes specified in Article 62(8)(i) and (ii) of the Order.

(3) For the purposes of paragraph (1)(b) a person is shown to fall within a description specified in sub-paragraph (e) and (f) of regulation 15(2) if he presents to the Agency a notice of entitlement which is effective for a period which includes the date of the testing of sight or a period beginning no later than 14 days after the date of the testing of sight.

(4) Where a testing of a person's sight is treated by virtue of paragraphs (1)(b) and (3) as a testing of sight under the Order the Agency shall, on being presented with a receipt for, or other evidence of, any fee paid for the testing, and on being satisfied as to its amount, pay to that person an amount equal to that fee."

*Amendment of terms of service*

5.—(1) Schedule 1 to the principal regulations (terms of service) is amended according to the following provisions of this regulation.

(2) In paragraph 2, for sub-paragraph (c) there is substituted the following:

“(c) regulation 9(2) to (6) of the Optical Charges and Payments (Northern Ireland) Regulations 1989;”.

(3) In paragraph 5 (notices) for “the Payments for Optical Appliances (Northern Ireland) Regulations 1986” there is substituted “the Optical Charges and Payments Regulations (Northern Ireland) 1989”.

Sealed with the Official Seal of the Department of Health and Social Services on 30th March 1989.

(L.S.)

*R. W. McQuiston*

Assistant Secretary

Sealed with the Official Seal of the Department of Finance and Personnel on 30th March 1989.

(L.S.)

*S. Quinn*

Assistant Secretary

## EXPLANATORY NOTE

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

These Regulations amend the General Ophthalmic Services Regulations (Northern Ireland) 1986 which provide for the arrangements under which ophthalmic medical practitioners and ophthalmic opticians ("contractors") provide for general ophthalmic services.

As a consequence of the Health and Medicines (Northern Ireland) Order 1988, from 1st April 1989 only certain categories of persons will be entitled to sight tests under the general ophthalmic services. Those persons are specified by regulation 4 as children (including those under 19 in full-time education), persons entitled to income support or to family credit or to full remission of certain health service charges, persons needing complex optical appliances, the registered blind or partially sighted, diabetics, those suffering from glaucoma and certain relatives of those suffering from glaucoma. Regulation 4 also provides for those shown as a result of the sight test to need a complex optical appliance or who establish entitlement to full remission of health service charges after the test to be treated as having had their sight tested under general ophthalmic services, so that any fee paid may be recovered from the Central Services Agency. The appropriate adjustment is made to the contractor's remuneration (regulation 3).