

2004 No. 102

NATIONAL HEALTH SERVICE

**The National Health Service (Travelling Expenses and
Remission of Charges) (Scotland) Amendment Regulations
2004**

Made - - - - *8th March 2004*

Laid before the Scottish Parliament *10th March 2004*

Coming into force in accordance with regulation 1(2) and (3)

The Scottish Ministers, in exercise of the powers conferred by sections 75A, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 2004.

(2) Subject to paragraph (3), these Regulations shall come into force on 1st April 2004.

(3) Regulation 2(2)(d) and (4) shall come into force on 6th April 2004.

(4) In these regulations “the principal Regulations” means the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003(b).

Amendment of the principal Regulations

2.—(1) The principal Regulations are amended as follows.

(2) In regulation 2 (interpretation)—

(a) omit “unless the context otherwise requires”;

(b) in the definition of “date of claim”, omit “in an appropriate office or by the Secretary of State” and insert “by or on behalf of the Scottish Ministers”;

(c) after the definition of “capital limit”, insert ““child” means a person who has not attained the age of 16;” and

(a) 1978 c.29; section 75A was inserted by the Social security Act 1988 (c.7), section 14(2), and amended by the Health and Medicines Act 1988 (c.49), Schedule 2, paragraph 13 the National Health service (Primary Care) Act 1997 (c.46), Schedule 2 Part I, paragraphs 32 and 51, and the National Health Service and Community Care Act 1990 (c.19), Schedule 9 paragraph 19(13), and by S.I. 1998/2385; section 105(7) was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5, and Schedule 7, and by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 9, paragraph 24, and by the Health Act 1999 (c.8), Schedule 4, paragraph 60; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.S.I. 2003/460.

- (d) after the definition of “the relevant income” insert ““severe disability element” means the severe disability element of working tax credit as specified in section 11(6)(d) of the Tax Credits Act 2002(a);”.
- (3) In regulation 3 (entitlement to full remission and payment)–
 - (a) in paragraph (3) omit “under the care of a hospital consultant”; and
 - (b) omit paragraph (6).
- (4) In regulation 4(2)(j) (description of persons entitled to full remission and payment)–
 - (a) in sub-paragraph (i)(bb) after “disability element” insert “or severe disability element”; and
 - (b) in sub-paragraph (ii) for “£14,200” substitute “£14,600”.
- (5) In regulation 7 (payment to persons resident in the Highlands and Islands)–
 - (a) in paragraph (1) omit “under the care of a hospital consultant”;
 - (b) in paragraph (1)(a) for “home” substitute “normal place of residence”; and
 - (c) for (2)(b) substitute–
 - “(b) those of a companion in a case where–
 - (i) the person is a child; or
 - (ii) it is necessary on medical grounds for that person to be accompanied.”.
- (6) In regulation 8(2) (calculation of resources and requirements)–
 - (i) in sub-paragraph (a) after “requirements” insert “calculated as”;
 - (ii) in sub-paragraph (b) after “requirements” insert “calculated as”; and
 - (iii) for “and in each case in accordance with the provisions of these Regulations in force at that date” substitute “in accordance with the provisions of these Regulations, as amended from time to time, which are in force at that date”.
- (7) In regulation 9(1) (claims for remission or payment)–
 - (a) omit–
 - (i) “who falls within sub-paragraph (a) or (b) below and”; and
 - (ii) “and processing”; and
 - (b) for “their” where it first occurs, substitute “the person’s”.

(8) In Table B in the Schedule, in the entry relating to Schedule 7, omit the words “After paragraph 10 insert” to the end and substitute–

“After paragraph 10 insert–

<p>10ZA. A claimant who is a lone parent who is temporarily in accommodation provided by a care home service provider or by a local authority under section 21 to 24 and 26 of the National Assistance Act 1948.</p>	<p>10ZA. Any amount applicable to the claimant under paragraph 1(1) of Schedule 4A, determined as if he were a single claimant plus–</p> <ul style="list-style-type: none">(a) in respect of each child who is a member of his family, the appropriate amount in respect of him prescribed in paragraph 2 of Schedule 2 or under this Schedule as appropriate; and(b) any amount which would be applicable to the claimant, if he were not living away from home, under regulation 17(1)(c) or (d) in so far as it relates to the family premium under paragraph 3 of Schedule 2.
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St Andrew’s House,
Edinburgh
8th March 2004

TOM McCABE
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (“the No. 2 Regulations”).

Regulation 2(2)(a) clarifies the intention of regulation 2 by removing unnecessary wording.

Regulation 2(2)(b) clarifies the definition of “date of claim”.

Regulation 2(2)(c) inserts a definition of “child”.

Regulation 2(2)(d) inserts a definition of “severe disability element”.

Regulation 2(3)(a) removes the requirement that services to a patient at a hospital have to be provided under the care of a hospital consultant before travelling expenses are payable.

Regulation 2(3)(b) revokes regulation 3(6) which contains a definition of “child”.

Regulation 2(4)(a) amends regulation 4(2)(j)(i)(bb) to extend the description of persons entitled to the full remission of charges for drugs, medicines, appliances and pharmaceutical services in pursuance of section 69(1) of the National Health Service (Scotland) Act 1978, charges for dental appliances and dental treatment in pursuance of section 70(1A) or section 71(1) of the Act or of section 20(1) of the National Health Service (Primary Care) Act 1997 and the payment of travelling expenses, to include a person who is a member of a family, one member of which is receiving working tax credit with a severe disability element.

Regulation 2(4)(b) amends regulation 4(2)(j)(ii) by raising the relevant income level of a person or persons at the time an award of a tax credit is made under section 14 of the Tax Credits Act 2002 from £14,200 to £14,600.

Regulation 2(5)(a) removes the reference to services being provided under the case of a hospital consultant to ensure consistency with regulation 2(3)(a) of these Regulations.

Regulation 2(5)(b) substitutes the term “normal place of residence” for the term “home” to secure consistency throughout the No. 2 Regulations.

Regulation 2(5)(c) amends regulation 7 to ensure consistency with regulation 3(3) of the No. 2 Regulations.

Regulation 2(6) amends regulation 8(2) to bring greater clarity.

Regulation 2(7) corrects regulation 9(1) by removing an erroneous reference and clarifying the wording.

Regulation 2(8) corrects the No. 2 Regulations by amending an erroneous reference and the layout of the text.

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