



Health Act 1999

1999 CHAPTER 8

PART II

THE NATIONAL HEALTH SERVICE: SCOTLAND

Fraud

59 Recovery of charges and payments.

(1) After section 99 of the 1978 Act there is inserted—

“99ZA Recovery of charges and payments.

- (1) Where goods or services to which this section applies are provided and either—
 - (a) any charge payable by any person under this Act in respect of the provision of the goods or services is reduced, remitted or repaid, but that person is not entitled to the reduction, remission or repayment; or
 - (b) any payment under this Act is made to, or for the benefit of, any person in respect of the cost of obtaining the goods or services but that person is not entitled to, or to the benefit of, the payment,the amount mentioned in subsection (2) is recoverable as a debt from the person in question by the responsible authority.
- (2) That amount—
 - (a) in a case within subsection (1)(a), is the amount of the charge or (where it has been reduced) reduction;
 - (b) in a case within subsection (1)(b), is the amount of the payment.
- (3) Where two or more persons are liable under section 99 or this section to pay an amount in respect of the same charge or payment, those persons shall be jointly and severally liable.

*Changes to legislation: There are currently no known outstanding effects
for the Health Act 1999, Section 59. (See end of Document for details)*

- (4) For the purposes of this section, the circumstances in which a person is to be treated as not entitled to a reduction, remission or repayment of a charge, or to (or to the benefit of) a payment, include in particular those in which it is received (wholly or partly)—
- (a) on the ground that he or another is a person of a particular description, where the person in question is not in fact of that description;
 - (b) on the ground that he or another holds a particular certificate, when the person in question does not in fact hold such a certificate or does hold such a certificate but is not entitled to it;
 - (c) on the ground that he or another has made a particular statement, when the person in question has not made such a statement or the statement made by him is false.
- (5) In this section and section 99ZB, “responsible authority” means—
- (a) in relation to the recovery of any charge under section 99 in respect of the provision of goods or services to which this section applies, the person by whom the charge is recoverable;
 - (b) in relation to the recovery by virtue of this section of the whole or part of the amount of any such charge, the person by whom the charge would have been recoverable;
 - (c) in a case within subsection (1)(b), the person who made the payment.
- (6) But the Secretary of State may by directions provide for—
- (a) the functions of any responsible authority of recovering any charges under this Act in respect of the provision of goods or services to which this section applies;
 - (b) the functions of any responsible authority under this section and section 99ZB,
- to be exercised on behalf of the authority by another health service body.
- (7) This section applies to the following goods and services—
- (a) dental treatment and appliances provided in pursuance of this Act;
 - (b) drugs and medicines provided in pursuance of this Act;
 - (c) the testing of sight;
 - (d) optical appliances;
 - (e) any other appliances provided in pursuance of this Act.

- 99ZB.—(1) Regulations may provide that, where a person fails to pay—
- (a) any amount recoverable from him under section 99 in respect of the provision of goods or services to which section 99ZA applies; or
 - (b) any amount recoverable from him under section 99ZA,

a notice (referred to in this section as a penalty notice) may be served on the person, by or on behalf of the responsible authority, requiring him to pay to the authority, within a prescribed period, that amount together with a charge (referred to in this section as a penalty charge) of an amount determined in accordance with the regulations.

- (2) The regulations may not provide for the amount of the penalty charge to exceed whichever is the smaller of—
- (a) £100;

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- (b) the amount referred to in subsection (1)(a) or (b) multiplied by 5.
- (3) The Secretary of State may by order provide for subsection (2) to have effect as if, for the sum specified in paragraph (a) or the multiplier specified in paragraph (b) (including that sum or multiplier as substituted by a previous order), there were substituted a sum or (as the case may be) multiplier specified in the order.
- (4) Regulations may provide that, if a person fails to pay the amount he is required to pay under a penalty notice within the period in question, he must also pay to the responsible authority by way of penalty a further sum determined in accordance with the regulations.
- (5) The further sum must not exceed 50 per cent. of the amount of the penalty charge.
- (6) Any sum payable under the regulations (including the amount referred to in subsection (1)(a) or (b)) may be recovered by the responsible authority as a debt.
- (7) But a person is not liable by virtue of a penalty notice—
- (a) to pay at any time so much of any amount referred to in subsection (1) (a) or (b) for which he is jointly and severally liable with another as at that time has been paid, or ordered by a court to be paid, by that other; or
 - (b) to a penalty charge, or a further sum by way of penalty, if he shows that he did not act wrongfully, or with any lack of care, in respect of the charge or payment in question.
- (8) Section 99ZA and this section apply to charges which may be made and recovered under section 20 of the ^{M1}National Health Service (Primary Care) Act 1997 as they apply to charges under this Act which may be recovered under section 99; and the reference to this Act in section 99ZA(7)(a) includes a reference to a pilot scheme (within the meaning of the 1997 Act).”
- (2) In section 105(3) of the 1978 Act (Parliamentary procedure for certain regulations) after “endowments)” there is inserted “ or orders under section 99ZB(3) ”.

Marginal Citations

M1 1997 c.46.

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