

1974 No. 1910 (S.175)

NATIONAL HEALTH SERVICE, SCOTLAND
The National Health Service (Charges for Appliances)
(Scotland) Regulations 1974

Made - - - 11th November 1974
Laid before Parliament 25th November 1974
Coming into Operation 16th December 1974

In exercise of the powers conferred on me by section 3(3) of the National Health Service (Scotland) Act 1947(a) (as amended by sections 33 and 39 of the Health Services and Public Health Act 1968(b) and section 64 of and Schedules 6 and 7 to the National Health Service (Scotland) Act 1972(c)) and by section 1 of the National Health Service Act 1951(d) (as amended by section 64 of and Schedule 6 to the National Health Service (Scotland) Act 1972) and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the National Health Service (Charges for Appliances) (Scotland) Regulations 1974 and shall come into operation on 16th December 1974.

Interpretation

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

“the Act of 1947” means the National Health Service (Scotland) Act 1947;

“the Act of 1951” means the National Health Service Act 1951;

“the Act of 1961” means the National Health Service Act 1961 (e);

“the Act of 1972” means the National Health Service (Scotland) Act 1972;

“Board” means a Health Board constituted under section 13 of the Act of 1972;

“enactment” includes a provision in a statutory instrument;

“optical appliance” means an appliance designed to correct, remedy or relieve a defect of sight;

“optician” means an ophthalmic optician or a dispensing optician as the case may require;

“supply” includes replacement, and “supplies” and “supplying” shall be construed accordingly.

(2) Unless the context otherwise requires, references in these regulations to any enactment shall be construed as references to that enactment as amended by any subsequent enactment.

(a) 1947 c. 27.

(c) 1972 c.58.

(e) 1961 c.19.

(b) 1968 c.46.

(d) 1951 c. 31.

(3) References in any other regulations to the regulations revoked by these regulations or to any provision thereof shall be construed as references to these regulations or to the corresponding provision hereof as the case may be.

(4) The Interpretation Act 1889(a) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Scope of regulations

3. These regulations relate to the supply, replacement and repair of appliances by the Secretary of State or a Board otherwise than under Part IV of the Act of 1947.

Charges for Dental Appliances under section 3(3)(a) of the Act of 1947

4.—(1) Where a Board—

- (a) supplies a person at his request with a dental appliance of a more expensive type than the type which would normally be supplied, or
- (b) repairs such a dental appliance at a cost in excess of the cost of repairing a dental appliance of the type which would normally be supplied,

that Board may make and recover from the person to whom such a dental appliance is supplied or for whom it is repaired, a charge equal to the difference between the cost of supplying or repairing such a dental appliance and the cost of supplying or repairing such a dental appliance as would normally be supplied:

Provided that any such appliance or repair of such appliance which in the opinion of the medical, dental or other officer responsible for the treatment of the person supplied, is required on medical or dental grounds shall be supplied or carried out free of charge.

(2) Where a Board supplies a dental appliance the person supplied or a person on his behalf shall be liable to pay to the Board the charges authorised by the Act of 1951 as varied by section 1 of the Act of 1961 or by regulations made under section 2 of the Act of 1961.

Charges for Optical Appliances under section 3(3)(a) of the Act of 1947

5.—(1) Where a Board supplies or repairs for a person at his request—

- (a) an optical appliance specified in the Statement of a more expensive type than the type which would normally be supplied, or
- (b) any other optical appliance of a more expensive type than the type which would normally be supplied,

then—

- (i) in a case to which paragraph (1)(a) applies, it may make and recover from that person or from a person on behalf of that person, such amount as is provided in the Statement as if such a Statement applied to that Board;
- (ii) in a case to which paragraph (1)(b) applies, it may make and recover from that person or from a person on behalf of that person a charge equal to the difference between the cost of supplying or repairing such an optical appliance and the cost of supplying or repairing such optical appliance as would normally be supplied:

Provided that any such appliance or repair of such appliance which, in the opinion of the medical or other officer responsible for the treatment of the person supplied, is required on medical or ophthalmic grounds shall be supplied or carried out free of charge.

(2) Where a Board supplies an optical appliance, the person supplied or a person on his behalf shall be liable to pay to the Board the charges authorised by the Act of 1951 as varied by section 1 of the Act of 1961 or by regulations made under section 2 of the Act of 1961.

(3) The foregoing paragraphs of this regulation shall apply where such supply or repair is provided by an optician under or by virtue of arrangements between a Board and that optician, as if that optician were the Board.

(4) For the purposes of this regulation "the Statement" means the Statement prepared under regulation 10 of the National Health Service (General Ophthalmic Services) (Scotland) Regulations 1974(a).

Charges under section 3(3)(b) of the Act of 1947

6.—(1) Where an appliance supplied by the Secretary of State or a Board (or otherwise than by a Board by virtue of arrangements made by a Board for the provision of such appliances), requires replacement or repair and the Secretary of State or the Board, as the case may be, has reason to believe that such replacement or repair is necessitated by an act or omission on the part of the person supplied or (if it occurred when he was under 16 years of age) of his or of the person having charge of him when it occurred, then unless the person supplied is a person for whom medical and dental inspection or treatment is provided under or by virtue of the provisions of section 6 of the Act of 1972 and in respect of whom evidence to that effect is produced to the Secretary of State or the Board as the case may require—

- (a) in relation to an appliance supplied by the Secretary of State, he may, after making such enquiries as seem to him to be necessary, recover from the person supplied or from a person on his behalf, the cost of the repair or replacement, or any part thereof;
- (b) in relation to an appliance supplied by a Board (or otherwise than by a Board by virtue of arrangements made by a Board for the provision of such appliances), the Board may, after referring the matter for investigation in accordance with the provisions of paragraph (2), recover the cost of the repair or replacement or any part thereof.

(2) Where a Board refers a matter for investigation under paragraph (1) above, it shall appoint a committee consisting of not less than three persons to make such inquiry as it thinks fit and to recommend whether the whole or any part of the cost of the replacement or repair of the appliance resulting from any such act or omission as aforesaid should be borne by or on behalf of the person supplied.

(3) If in the opinion of the committee the circumstances so require or if the person concerned so demands any inquiry by the committee shall take the form of an oral hearing.

(4) The committee shall report its findings to the Board and the Board shall take the committee's report into consideration in reaching its decision.

(a) S.I. 1974/507 (1974/I. p. 1912).

Recovery of charges

7. Any sum payable or recoverable under these regulations may, without prejudice to any other method of recovery, be recovered as a debt.

Revocation

8.—(1) The National Health Service (Charges for Appliances) (Scotland) Regulations 1948(a) are hereby revoked.

(2) Section 38 of the Interpretation Act 1889 shall apply as if these regulations were an Act of Parliament and as if the regulations revoked by these regulations were an Act of Parliament repealed by an Act of Parliament.

(Sgd) William Ross,
One of Her Majesty's Principal
Secretaries of State.

St. Andrew's House,
Edinburgh.
11th November 1974.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, which replace with modifications the Regulations revoked by them, provide, in relation to appliances supplied otherwise than under Part IV of the National Health Service (Scotland) Act 1947, for the making and recovery of charges for (a) the supply, replacement or repair of dental and optical appliances of a more expensive kind than those normally supplied, and (b) the replacement or repair of appliances which have been lost or damaged through carelessness. The modifications take account of the effects of reorganisation of the Health Service in Scotland, including the transfer of responsibilities of Regional Hospital Boards and Boards of Management to Health Boards.

(a) S.I. 1948/2231 (Rev. XV, p. 846).

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