

1980 No. 1674 (S. 138)

NATIONAL HEALTH SERVICE, SCOTLAND
**The National Health Service (Charges for Drugs
and Appliances) (Scotland) Regulations 1980**

Made - - - - 30th October 1980

Laid before Parliament 10th November 1980

Coming into Operation 1st December 1980

In exercise of the powers conferred on me by sections 19, 25, 27, 69, 75 and 108(1) of and paragraph 1 of Schedule 11 to the National Health Service (Scotland) Act 1978(a) 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 Drugs and Appliances) (Scotland) Regulations 1980 and shall come into operation on 1st December 1980.

Interpretation

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

“the Act” means the National Health Service (Scotland) Act 1978;

“accepted disablement” means physical or mental injury or disease which is accepted by the Secretary of State as attributable to or aggravated by service in the armed forces of the Crown or such other service as he may determine;

“appliance” means an appliance, other than a contraceptive appliance, which is a listed appliance within the meaning of section 27(1) of the Act;

“Board” means a Health Board constituted under section 2 of the Act;

“chemist” includes any person, other than a doctor, providing pharmaceutical services;

“the Dental Services Regulations” means the National Health Service (General Dental Services) (Scotland) Regulations 1974(b);

“dentist” means a registered dental practitioner;

“dependant” has the meaning assigned to it by regulation 2(1) of the Supplementary Benefit (Resources) Regulations 1980(c);

“doctor” means a fully registered medical practitioner;

(a) 1978 c. 29; sections 19, 25 and 27 were amended by the Health Services Act 1980 (c.53), section 7, paragraph 4 of Schedule 6 and section 20(2) respectively.

(b) S.I. 1974/505, amended by S.I. 1974/2048, 1980/1220.

(c) S.I. 1980/1300.

“drugs” includes medicines but does not include contraceptive substances;

“exemption” means any remission granted under or by virtue of these regulations;

“exemption certificate” means a certificate issued pursuant to these regulations authorising a person to claim exemption from charges payable under these regulations;

“family” has the meaning assigned to it by section 1(1) of the Family Income Supplements Act 1970(a);

“medical list” has the meaning assigned to it by regulation 2(1) of the Medical Services Regulations;

“the Medical Services Regulations” means the National Health Service (General Medical and Pharmaceutical Services) (Scotland) Regulations 1974(b);

“out-patient” means a person receiving treatment under the Act otherwise than under Part II of the Act and who is not for the purpose of receiving that treatment resident in a hospital;

“partner” has the meaning assigned to it by regulation 2(1) of the Supplementary Benefit (Resources) Regulations 1980;

“patient” means as the case may require any person for whose treatment a doctor is responsible under his terms of service or any person who applies to a chemist for the provision of pharmaceutical services; and includes a person who so applies to a chemist on behalf of a patient and a person who pays or undertakes to pay on behalf of a patient the charges for which these regulations provide;

“pharmaceutical services” means services provided under section 27 of the Act;

“prescription form” means a form on which the provision of pharmaceutical services may be ordered by a Board or by a doctor or dentist pursuant to the provisions of their terms of service and which contains on its reverse side a form of declaration of entitlement to exemption;

“terms of service” has the meaning respectively in respect of a doctor, a chemist or a dentist assigned to it in the Medical Services Regulations or the Dental Services Regulations;

“treatment” includes examination and diagnosis.

(2) For the purpose of these regulations (a) the supply of quantities of the same drug in more than one container on an order on one prescription form shall be deemed to be the supply of only one quantity of a drug and (b) the supply on an order on one prescription form of more than one appliance of the same type or the supply on an order on one prescription form of two or more component parts of the same appliance shall be deemed to be the supply of only one appliance, so however that any piece of elastic hosiery shall be deemed to be a separate appliance.

(3) Unless the context otherwise requires, any reference in these regulations to a numbered regulation or Schedule is a reference to the regulation in, or as the case may be, the Schedule to these regulations which bears that number, and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

(a) 1970 c. 55.

(b) S.I. 1974/506, amended by S.I. 1975/696, 1976/733, 1574, 1978/1762.

Supply of drugs and appliances by chemists

3.—(1) A chemist who provides pharmaceutical services to a patient shall make and recover from the patient—

- (a) in respect of the supply of an appliance specified in column 1 of Schedule 1 the charge specified in column 2 of Schedule 1 in respect of that appliance; and
- (b) in any other case, in respect of the supply of each quantity of a drug and each appliance not so specified, the charge of £1.00;

unless—

- (i) a declaration of entitlement to exemption on the prescription form is duly completed by or on behalf of the patient; or
- (ii) where a Board has authorised a chemist to accept postage stamps in payment of such charge, that patient has affixed to the prescription form postage stamps to the value of the extent of his liability under paragraphs (1)(a) or (1)(b).

(2) A chemist, notwithstanding the provisions of his terms of service, shall be under no obligation to provide pharmaceutical services in respect of an order on a prescription form unless he is first paid by the patient the charge payable under paragraph (1)(a) or (1)(b) or the exceptions set out in paragraph (1)(i) or (1)(ii) are applicable.

(3) A chemist who makes and recovers a charge under paragraph (1) shall if so required by the patient give him a receipt for the amount received on a form provided for the purpose by the Board which contains forms of declaration in support of an application for repayment.

(4) Any sum which a Board is under a duty to pay or cause to be paid to a chemist in respect of the provision by him of pharmaceutical services other than such provision to which paragraph (1)(i) or (1)(ii) applies, shall be reduced by the sum of £1.00 in respect of each quantity of a drug supplied and by the sum of £1.00, or as the case may require, the sum specified in column 2 of Schedule 1 in respect of each appliance supplied as part of such services.

Supply of drugs and appliances by doctors

4.—(1) A doctor, who provides pharmaceutical services to a patient in pursuance of the provisions of the Medical Services Regulations or of his terms of service, shall make and recover from that patient—

- (a) in respect of the supply of an appliance specified in column 1 of Schedule 1 the charge specified in column 2 of Schedule 1 in respect of that appliance; and
- (b) in any other case, in respect of the supply of each quantity of a drug and each appliance not so specified, the charge of £1.00;

unless—

- (i) the patient or a person on his behalf declares that he is entitled to exemption; or
- (ii) the supply of the appliance or drug is needed for the immediate treatment of that patient before a supply can be obtained otherwise.

(2) A doctor shall be under no obligation to supply drugs or appliances in respect of which he is required by the provisions of paragraph (1) to make and recover a charge, unless he is first paid by the patient the charge prescribed by

paragraph (1)(a) or (1)(b), or the exceptions set out in paragraph (1)(i) or (1)(ii) are applicable.

(3) A doctor shall as soon as practicable after the end of each month send a sum of money equal to the total of the charges required to be made and recovered by him pursuant to the provisions of paragraph (1) during that month to the Board on whose medical list he is included, or, if he is included on more than one medical list, to the Board which pursuant to the provisions of the Statement published under regulation 31 of the Medical Services Regulations causes payment to be made to him for the provision of general medical services on behalf of all the Boards concerned.

(4) A doctor who makes and recovers a charge under paragraph (1) shall, if so required by the patient give him a receipt for the amount received on a form provided for the purpose by the Board which contains forms of declaration in support of an application for repayment.

Supply of drugs and appliances to out-patients

5.—(1) A Board which at a hospital supplies to an out-patient drugs (otherwise than for administration in the hospital) or appliances for the purposes of his treatment, shall make and recover from the out-patient—

- (a) in respect of the supply of an appliance specified in column 1 of Schedule 1 the charge specified in column 2 of Schedule 1 in respect of that appliance; and
- (b) in respect of the supply of each quantity of a drug and each appliance not so specified, the charge of £1.00.

(2) For the purposes of this regulation only one charge in respect of each quantity of a drug supplied by a hospital or by a chemist against an order on one prescription form shall be payable notwithstanding that such quantity is by order of the prescriber to be supplied on more than one day during a period of 14 days.

(3) A Board which makes and receives a charge under this regulation shall, if so required by the patient, give him a receipt for the amount paid on a form which contains forms of declaration in support of an application for repayment.

Fabric supports and wigs

6.—(1) A Board which, otherwise than under Part II of the Act, supplies to a patient for the purposes of his treatment an appliance of a description specified in column 1 of Schedule 2 shall make and recover from the patient a charge of the amount specified in column 2 of Schedule 2 in respect of that appliance.

(2) A Board which makes and recovers a charge under this regulation shall, if so required by the patient making the payment, give him a receipt for the amount paid.

(3) No charge under this regulation shall be payable by or on behalf of a patient to whom the Secretary of State has issued an exemption certificate in respect of treatment for accepted disablement in respect of the supply of an appliance which he requires for the purpose of the treatment of that disablement.

(4) Where a patient has paid a charge which, but for paragraph (3) would be authorised by paragraph (1) he may claim a refund of that charge by presenting to the Board the receipt for it together with—

- (a) the certificate mentioned in paragraph (3); and

- (b) if the patient was referred by a doctor to the Board for treatment, either—
- (i) a certificate from the doctor certifying that it was for the accepted disablement; or
 - (ii) a statement that such a certificate was surrendered to the Board on or before the supply of the appliance.
- (5) The Board, if satisfied by the evidence so produced that the charge to which the receipt relates was not properly payable, shall repay to the patient the amount of the charge and return any certificate to which paragraph (3) refers which he may have submitted.

Exemptions

7.—(1) Subject to the provisions of paragraphs 1(1) and 4 of Schedule 11 to the Act and, to the following provisions of this regulation no charge shall be payable under these regulations other than regulation 6 by—

- (a) a person who has not attained the age of 16 years;
- (b) a person being a man who has attained the age of 65 years or being a woman who has attained the age of 60 years;
- (c) a woman to whom a Board has issued an exemption certificate on the ground that she is an expectant mother or a mother whose child is less than one year of age;
- (d) a person to whom a Board has issued an exemption certificate on the ground that he is suffering from one or more of the following conditions:—
 - (i) permanent fistula (including cæcostomy, colostomy, or ileostomy) requiring continuous surgical dressing or an appliance;
 - (ii) the following disorders for which specific substitution therapy is essential:—
 - Addison's disease and other forms of hypoadrenalism,
 - diabetes insipidus and other forms of hypopituitarism,
 - diabetes mellitus,
 - hypoparathyroidism,
 - myasthenia gravis,
 - myxoedema;
 - (iii) epilepsy requiring continuous anti-convulsive therapy
 - (iv) a continuing physical disability which prevents the patient from leaving his residence without the help of another person;
- (e) a person to whom the Secretary of State has issued a certificate in respect of the supply of drugs and appliances for the treatment of accepted disablement but only in respect of those supplies to which the certificate relates;
- (f) a person to whom a certificate has been granted pursuant to regulations having effect under or by virtue of section 69(2) of the Act;
- (g) a person who is a member of a family in respect of which a person is in receipt of a family income supplement under the Family Income Supplements Act 1970(a) in consequence whereof a certificate of exemption from charges for which these regulations provide has been issued to or in respect of that family;

(a) 1970 c. 55.

- (h) a person, and any partner or dependant of a person who is receiving a supplementary pension or allowance under the Supplementary Benefits Act 1976(a) in consequence whereof a certificate of exemption from the charges for which these regulations provide has been issued to and in respect of any partner or dependants of that person;
 - (i) a person to whom the Secretary of State has issued an exemption certificate on the ground that he has attained the age of 16 years and his requirements exceed his resources when determined by the Secretary of State in accordance with the provisions of regulation 8 and any partner or dependant of that person.
- (2) No exemption from a charge payable under these regulations shall be granted unless—
- (a) in the case of a charge payable to a chemist, a declaration of entitlement to exemption on the prescription form presented to the chemist is duly completed by or on behalf of the person claiming exemption; or
 - (b) in the case of a charge payable to a doctor, a declaration of entitlement to exemption, which shall be in writing if the doctor so requires, is made to that doctor; or
 - (c) in the case of a charge payable to a Board under regulation 5, the person claiming exemption provides such evidence as that Board may reasonably require that he is entitled to such exemption.
- (3) (a) A person who wishes to claim exemption pursuant to the provisions of paragraph (1)(c) or (1)(d) shall apply for an exemption certificate to the Board on a form supplied by the Board for that purpose.
- (b) A Board on being satisfied that an applicant is entitled to exemption pursuant to the provisions of paragraph (1)(c), shall issue an exemption certificate which shall have effect—
- (i) in the case of an expectant mother, during pregnancy and during either the period of one year beginning with the expected date of confinement or the life of the child of that pregnancy, whichever is the shorter;
 - (ii) in the case of a mother whose child is less than one year of age, during the period ending with the attainment by that child of that age or the life of that child, whichever is the shorter.
- (c) A Board shall issue to the applicant an exemption certificate which shall have effect for such period as they may determine, on being satisfied that the applicant is not entitled to exemption under the provisions of paragraph (1)(a) or (1)(b) and is entitled to exemption in pursuance of the provisions of paragraph (1)(d).
- (4) Where a claim to exemption has been made but is not substantiated and in consequence of that claim a chemist, a doctor or a Board has not recovered a charge in respect of the supply of any drugs or appliances, a Board shall recover such charge from the person concerned.
- (5) Any claim to exemption by reference to age or the validity of a certificate shall be determined by reference to age or validity on the day on which any order for drugs or appliances is presented for dispensing, or, as the case may be, drugs or appliances are supplied by a doctor or a Board.

(a) 1976 c. 71, the Act as amended (other than sections 31, 32, 35 and 36 and Schedules 4 and 6 to 8) is set out in Part II of Schedule 2 to the Social Security Act 1980 (c.30)

Determination of resources and requirements

8.—(1) A person who wishes to claim exemption pursuant to the provisions of regulation 7(1)(i) shall apply to the Secretary of State for the grant of a certificate for which that sub-paragraph provides.

(2) The resources and requirements of that person shall, subject to the following provisions of this regulation, be determined pursuant to the provisions of Schedule 1 to the Supplementary Benefits Act 1976 (provisions for determining right to and amount of supplementary benefits).

(3) The requirements and resources of that person for the purposes of the determination for which paragraph (2) provides shall be determined—

- (a) as if sections 5 (power to require registration for employment), 6 (exclusion of certain employed persons and pupils), 8 (persons affected by trade disputes) and 10 (modification of rights to supplementary allowance in certain cases) of and paragraph 3(2)(b) of Schedule 1 to that Act did *not* apply;
- (b) as if the requirements included—
 - (i) the charges under these regulations,
 - (ii) the sum of £1.50,
 - (iii) such amount in respect of repayments of mortgage capital as is reasonable in the circumstances,
 - (iv) such amount in respect of life insurance premiums payable by and in respect of a policy on the life of that person as is reasonable in the circumstances,
 - (v) such amount in respect of hire purchase payments under a hire-purchase agreement for such essential items as would be provided pursuant to Regulation 11 of the Supplementary Benefits (Single Payments) Regulations 1980(a) as if the person were in receipt of a supplementary pension or allowance under the Supplementary Benefits Act 1976 and as if paragraph 15(d) of Schedule 3 to the Supplementary Benefits (Requirements) Regulations 1980(b) did not apply.

(4) Where that person would after such determination be eligible for an award of a supplementary pension or allowance for the week on which his application is made, the Secretary of State shall grant the certificate for which regulation 7(1)(i) provides.

Pre-payment certificates

9.—(1) Subject to the following provisions of this regulation, a Board on payment of the sum prescribed by paragraph (5) shall as soon as reasonably practicable grant a certificate (in these regulations referred to as pre-payment certificate) to any person who duly completes and submits an application therefor on a form provided for the purpose by the Board.

(2) A pre-payment certificate shall be valid for a period of either four months or twelve months and an application for such a certificate shall indicate the period for which it is required to be valid.

(3) The payment of a prescribed sum under this regulation shall not be deemed to be the payment of a charge under these regulations.

(a) S.I. 1980/985.

(b) S.I. 1980/1299.

(4) No certificate shall be issued under this regulation unless the application made therefor is received less than one month before the date on which its period of validity is to begin.

(5) For the purpose of this regulation the prescribed sum shall be £5.50 for a pre-payment certificate valid for 4 months and £15.00 for such a certificate valid for 12 months.

Repayments

10.—(1) Where a charge has been paid under these regulations by or on behalf of a person who by virtue of regulation 7, was at the time of payment eligible for exemption from that charge, a claim for repayment of that charge may, subject to the provisions of this regulation, be made by or on behalf of that person.

(2) A claim for a repayment of charges paid under this regulation shall be accompanied by the appropriate receipt and the appropriate declaration in support of the claim.

(3) The Secretary of State may determine different periods within which claims must be submitted for different claimants or categories of claimants, so however that the period shall in no case be less than one month from the date on which the charge was paid.

(4) Subject to paragraph (2), any claim or any repayment under this regulation shall be made in such manner and subject to such conditions as the Secretary of State may determine.

Application

11. These regulations shall apply only where drugs and appliances are supplied on or after 1st December 1980.

Revocations

12. The regulations specified in Schedule 3 are hereby revoked.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St. Andrew's House,
Edinburgh.
30th October 1980.

SCHEDULE 1 *Regulations 3, 4 and 5*
 CHARGES FOR ELASTIC HOSIERY

Column 1 Specified Appliances	Column 2 Specified Charge
Above knee stocking, below knee stocking or thigh stocking	£1.60 each (i.e. £3.20 per pair)

SCHEDULE 2 *Regulation 6*
 CHARGES FOR FABRIC SUPPORT AND WIGS

Column 1 Specified Appliances	Column 2 Specified Charges
Fabric Support (other than elastic hosiery)	£7.00 each
Bespoke Wig	£26.50 each
Stock Wig	£9.50 each

SCHEDULE 3 *Regulation 12*
 REGULATIONS REVOKED

Column 1 S.I. Number	Column 2 Title
1974/508	The National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 1974
1974/647	The National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment Regulations 1974
1975/695	The National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment Regulations 1975
1975/1716	The National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment (No 2) Regulations 1975
1976/1873	The National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment Regulations 1976
1979/704	The National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment Regulations 1979
1980/296	The National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment Regulations 1980

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations consolidate with amendments the provisions for the making and recovery of charges for drugs and appliances (other than dental or optical appliances) supplied under or by virtue of the National Health Service (Scotland) Act 1978 and formerly contained in the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 1974, and in other Regulations. The principal amendments increase the charges specified for the supply of drugs and certain appliances and increase the sums prescribed.

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