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STATUTORY INSTRUMENTS

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**1998 No. 642**

**The National Health Service (Optical Charges  
and Payments) (Scotland) Regulations 1998**

**PART IV**

**PAYMENTS FOR COST OF SUPPLY OF OPTICAL APPLIANCES**

**Eligibility – supply of optical appliances**

**8.**—(1) A payment shall be made as provided for by this Part of these Regulations to meet, or to contribute towards, the cost incurred (whether by way of charge under the Act or otherwise) for the supply of an optical appliance for which a prescription has been given in consequence of a testing of sight of an eligible person—

- (a) which took place under the Act; or
- (b) which took place otherwise than under the Act and within the Health Board area in which the person whose sight was tested normally resides.

(2) An eligible person is a person who at the time of the supply of the optical appliance is any of the following:—

- (a) a child;
- (b) a person under the age of 19 years and receiving qualifying full-time education within the meaning of paragraph 7 of Schedule 11 to the Act<sup>(1)</sup>;
- (c) a person whose resources are treated, in accordance with paragraph (3), as being less than his requirements;
- (d) a person whose 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 Act, are equal to or exceed his requirements as so calculated but whose patient's contribution is nil or is less than the face value of a voucher issued to him under this Part of these Regulations and whose capital resources do not exceed the capital limit;
- (e) a person to whom a prescription is issued for a complex appliance.

(3) A person's resources shall be treated as being less than 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 Act, are less

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(1) Paragraph 7 was substituted by the Health Services Act 1980 (c. 53), Schedule 5, Part II, paragraph 8.

than his requirements as so calculated and his capital resources as so calculated do not exceed the capital limit;

- (f) he is a member of the same family as a person described in paragraph (e) of this paragraph;
- (g) he is in receipt of disability working allowance;
- (h) he is a member of the same family as a person described in sub-paragraph (g) of this paragraph;
- (i) he is in receipt of an income-based jobseeker's allowance; or
- (j) he is a member of the same family as a person described in sub-paragraph (i) of this paragraph.

(4) In paragraph (3), "family" (in references to membership of the same family) has the meaning given to it by section 137(1) of the Social Security Contributions and Benefits Act 1992—

- (a) as it applies to income support(2), in the case of paragraph (3)(b) and (f);
- (b) as it applies to family credit(3), in the case of paragraph (3)(d); and
- (c) as it applies to disability working allowance(4), in the case of paragraph (3)(h),

and has the meaning given to it by section 35 of the Jobseekers Act 1995(5) in the case of paragraph (3)(j).

(5) For the purposes of regulation 10 and other provisions of this Part as they apply to payments where the testing of sight was by or on behalf of a Health Board or NHS trust, a person is also an eligible person if, because of the frequency with which the condition of his eyes changes, he is considered by the Health Board or NHS trust to be non-tolerant of his existing optical appliance.

### **Issue of vouchers by ophthalmic medical practitioners and opticians**

9.—(1) An ophthalmic medical practitioner or optician who, following a testing of sight under the Ophthalmic Services Regulations, issues a prescription for an optical appliance to a patient—

- (a) who has indicated that he is an eligible person; or
- (b) who (whether or not he has so indicated) is issued with a prescription for a complex appliance,

shall, in the circumstances described in paragraph (3) but subject to paragraph (4), issue to the patient a voucher relating to the optical appliance prescribed on the same occasion as he issues the prescription in accordance with paragraph 10(3) of Schedule 1 to the Ophthalmic Services Regulations.

- (2) The ophthalmic medical practitioner or optician issuing the voucher shall sign it and shall—
  - (a) mark on it the letter code specified in column 2 of Schedule 1 which relates to the type of optical appliance prescribed as set out in column 1 of that Schedule; and
  - (b) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's date of birth, particulars of the prescription issued to the patient, the date on which the patient's sight was tested and the date of issue of the voucher.

(3) The circumstances referred to in paragraph (1) are where the ophthalmic medical practitioner or optician, having consulted any records which he has relating to the patient and made such enquiry of the patient as he considers relevant, is satisfied that—

(2) See S.I. 1987/1967, regulations 14 to 16; relevant amending instruments are S.I. 1988/663 and 1445, 1989/534, 1990/547, 1992/468 and 3147, 1993/2119 and 1996/206.

(3) See S.I. 1987/1973, regulations 6 to 9; relevant amending instruments are S.I. 1988/660, 1990/574, 1992/573, 1993/2119 and 1996/1345.

(4) See S.I. 1991/2887, regulations 8 to 11 as amended by S.I. 1993/2119 and 1996/1345.

(5) See S.I. 1996/207, regulations 76 to 78 as amended by S.I. 1996/1516 and 1517.

- (a) the patient requires an optical appliance for the first time or an optical appliance pursuant to a prescription the particulars of which differ from those relating to his existing appliance; or
- (b) the patient requires an optical appliance because his existing optical appliance has been rendered unserviceable by fair wear and tear.

(4) Where a patient requires an optical appliance pursuant to a prescription the particulars of which differ from those relating to his existing appliance only because the patient is non-tolerant of that appliance, and has been so since it was supplied to him, no voucher shall be issued unless the Health Board responsible for the arrangements for the sight test, being satisfied that the prescription for that existing appliance was clinically correct, has authorised the issue of a voucher.

(5) Unless regulation 11 applies, not more than one voucher shall be issued to a patient in respect of any one optical appliance prescribed.

#### **Issue of vouchers by Health Boards and NHS trusts in connection with the hospital eye service**

**10.**—(1) Where, following a testing of sight, a prescription for an optical appliance is issued to a patient—

- (a) who has indicated that he is an eligible person;
- (b) who (whether or not he has so indicated) is issued with a prescription for a complex appliance; or
- (c) who is an eligible person by virtue of regulation 8(5),

the Health Board or NHS Trust by or on behalf of which the patient's sight was tested shall issue to the patient a voucher relating to the optical appliance prescribed.

(2) The Health Board or NHS trust issuing the voucher shall—

- (a) mark on it the letter code specified in column 2 of Schedule 1 which relates to the type of optical appliance prescribed as set out in column 1 of that Schedule; and
- (b) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's date of birth, particulars of the prescription issued to the patient, the date on which the patient's sight was tested and the date of issue of the voucher.

#### **Issue of replacement vouchers by Health Boards or NHS trust**

**11.** Where, on an application by a patient within six months of a voucher having been issued to him under regulation 9(1) or 10(1), a Health Board or NHS trust is satisfied, having made such enquiries as it considers relevant, that the voucher has been lost or destroyed without having been presented to a supplier of optical appliances, it may issue to the patient a replacement voucher completed in accordance with regulation 9(2)(a) and (b) and 10(2)(a) and (b), but with the date of issue of the voucher being that on which the replacement is issued.

#### **Use of vouchers for the supply of optical appliances**

**12.**—(1) Subject to paragraphs (4) and (5), a patient to whom a voucher, duly completed in accordance with regulation 9, 10 or 11, has been issued may present it to a supplier who supplies or is to supply him with an optical appliance, provided that the arrangements for supply are made within six months of the date on which the voucher was issued.

(2) A supplier may accept the voucher in substitution for payment by the patient of an amount equal to its redemption value, being the whole or part of the cost incurred for the supply of an optical appliance.

- (3) A voucher relating to glasses may be accepted in connection with the supply of contact lenses.
- (4) Before presenting the voucher to the supplier the patient shall sign on the voucher—
  - (a) a declaration in writing to the effect that he is an eligible person indicating the grounds of his eligibility; and
  - (b) an undertaking in writing to the effect that, if he is unable to show that he is an eligible person, he will pay to the responsible authority an amount equal to the voucher's redemption value.
- (5) A patient who is an eligible person only by virtue of regulation 8(2)(d) or by virtue of his resources being treated in accordance with regulation 8(3)(e) or (f) as being less than his requirements shall—
  - (a) before presenting the voucher to the supplier, apply to the Secretary of State for a notice of entitlement; and
  - (b) on the same occasion as he presents the supplier with a voucher in accordance with paragraph (1), show a current notice of entitlement to the supplier and permit him to copy such details as may be required for the purposes of regulation 13(2)(c)(iii).

### **Payments to suppliers**

**13.—**(1) Except where it was the supplier, the responsible authority shall, if the conditions specified in paragraph (2) are fulfilled, make a payment of a voucher's redemption value to a supplier who has accepted the voucher from a patient in accordance with regulation 12.

- (2) The conditions referred to in paragraph (1) are that—
  - (a) the patient has signed the declaration and undertaking referred to in regulation 12(4) and acknowledged receipt on the voucher of the optical appliance supplied to him;
  - (b) the optical appliance is not sold or supplied in contravention of section 21(1) of the Optician's Act 1989(6); and
  - (c) the supplier has—
    - (i) made and kept a written record of the supply and issued to the patient a receipt for any money received from the patient;
    - (ii) made a claim for a payment on a duly completed voucher to the responsible authority, within the period of 3 months beginning with the date of supply of the optical appliance;
    - (iii) where the patient has shown a notice of entitlement to him, informed the responsible authority of the amount of the patient's contribution, if any; and
    - (iv) where the claim relates to a voucher the value of which is increased in accordance with paragraph 1(1)(e) of Schedule 3, certified that the glasses supplied were small glasses.

### **Redemption value of voucher for supply of optical appliances**

**14.—**(1) Where an optical appliance was supplied otherwise than under the Act the redemption value of a voucher is, subject to paragraphs (3) to (5), the lesser of—

- (a) the full cost which would have been payable by the patient for the supply but for this Part of these Regulations;
- (b) the face value of the voucher.

(2) Where an optical appliance was supplied under the Act, the redemption value of a voucher is, subject to paragraphs (3) to (5), the lesser of—

- (a) the amount of the charge for the time being determined pursuant to regulation 2 which would have been payable by the patient for the supply but for this Part;
- (b) the face value of the voucher.

(3) In relation to payments to be made because of a person's eligibility by virtue of regulation 8(2)(d), the amounts taken for the purposes of paragraph (1)(a) and (b) or paragraph (2)(a) and (b) shall, subject to paragraph (4), be reduced by the patient's contribution.

(4) If a reduction made under paragraph (3) in the case of a patient to whom a prescription was issued for a complex appliance would render the redemption value of the voucher less than the minimum complex appliance payment, that value shall be the minimum complex appliance payment.

(5) Where the patient was an eligible person only because a prescription was issued to him for a complex appliance, the redemption value of a voucher shall be the minimum complex appliance payment, except that where—

- (a) the appliance was supplied under the Act; and
- (b) in accordance with directions given pursuant to regulation 2(1), the amount of a charge made for the supply under section 70(1) of the Act would, but for any maximum charge specified in the directions, have exceeded by any amount the charge actually made,

the redemption value shall be reduced by the amount of the excess.