

2001 No. 414

NATIONAL HEALTH SERVICE, ENGLAND

**National Health Service (Optical Charges and Payments)
and (General Ophthalmic Services) Amendment
Regulations 2001**

<i>Made</i> - - - - -	<i>14th February 2001</i>
<i>Laid before Parliament</i>	<i>15th February 2001</i>
<i>Coming into force</i> - -	<i>19th February 2001</i>

The Secretary of State for Health, in exercise of the powers conferred upon him by sections 38, 39, 78, 126(4) and 127 of, and paragraphs 2 and 2A of Schedule 12 to the National Health Service Act 1977(a) hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) Amendment Regulations 2001 and shall come into force on 19th February 2001.

(2) In these Regulations unless the context otherwise requires—

“the 1997 Regulations” means the National Health Service (Optical Charges and Payments) Regulations 1997(b),

“the 1986 Regulations” means the National Health Service (General Ophthalmic Services) Regulations 1986(c).

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- (a) 1977 c. 49; *see* section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i), for the definitions of “prescribed” and “regulations”. Section 38 was amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), section 1 and Schedule 1, paragraph 51; by the Health and Social Security Act 1984 (c. 48) (“the 1984 Act”), section 1(3); by S.I. 1985/39, article 7(11); by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), section 13(1), and by the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), Schedule 1, paragraph 27. Section 39 was extended by the 1988 Act, section 17; and amended by the 1980 Act, section 1 and Schedule 1, paragraph 52; by the 1984 Act section 1(4), Schedule 1, Part I, paragraph 1 and Schedule 8, Part I; by S.I. 1985/39, article 7(12); and by the 1995 Act, Schedule I, paragraph 28. Section 126(4) was amended by the 1990 Act, section 65(2); and by the Health Act 1999 (c. 8), Schedule 4, paragraph 37(6). Paragraph 2(1) of Schedule 12 was substituted by the 1988 Act, Schedule 2, paragraph 8(1). Paragraph 2A of Schedule 12 was inserted by the 1984 Act, Schedule 1, Part I, paragraph 3 and amended by the 1988 Act, section 13(2) and (3). As regards Wales, the functions of the Secretary of State under sections 38, 39, 78, 126(4) and 127 of, and paragraphs 2 and 2A of Schedule 12 to the 1977 Act are transferred to the National Assembly for Wales under article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672: these Regulations therefore extend only to England.
- (b) S.I. 1997/818: the relevant amending instruments are S.I. 1997/2488, 1998/499, 1999/609 and 2000/3029.
- (c) S.I. 1986/975: the relevant amending instruments are S.I. 1988/486, 1989/395, 1990/1051, 1991/583, 1992/404, 1995/558, 1996/705, 1996/2320, 1999/2562 and 1999/2841.

Amendment of the 1997 Regulations

2. In regulation 1(2) of the 1997 Regulations (interpretation), in the definition of “NHS sight test fee”, for the amount of “£42.79” substitute “£42.85” and for the amount “£15.46” substitute “£15.52”.

3.—(1) Regulation 12 of the 1997 Regulations (use of vouchers for supply of optical appliances) shall be amended in accordance with the following provisions.

(2) In paragraph (1) for “paragraphs (4) and (5)” substitute “paragraphs (4), (5) and (6),”.

(3) After paragraph (5) add—

“(6) When the patient presents the voucher—

- (a) the supplier shall ask him to produce satisfactory evidence that he is an eligible person, unless the supplier, in cases other than where the patient is an eligible person by virtue of regulation 8(2)(c) or (d), already has satisfactory evidence of entitlement available to him; and
- (b) if the patient is requested to produce satisfactory evidence, but does not do so, the supplier shall record the fact on the voucher.”.

4. At the end of regulation 13 of the 1997 Regulations (payments to suppliers), add—

“(3) The responsible authority shall also make a payment, to be determined by the Secretary of State, to the supplier to meet or contribute to the cost incurred by the supplier in complying with regulation 12(6).”.

5. In regulation 16 of the 1997 Regulations (completion of vouchers), for paragraphs (2) and (3) substitute—

“(2) In the case of a replacement, the supplier shall—

- (a) ask the patient to produce satisfactory evidence of entitlement, unless the supplier, in cases other than where the patient is an eligible person by virtue of regulation 8(2)(c) or (d), already has satisfactory evidence of entitlement available to him;
- (b) mark on the voucher the letter code specified in column 2 of Schedule 1, which relates to the type of optical appliance to be replaced, as set out in column 1 of that Schedule;
- (c) duly complete the relevant parts of the voucher with—
 - (i) the name and address of the patient,
 - (ii) the patient’s date of birth;
- (d) if the patient has been asked for, but not shown satisfactory evidence of entitlement, record the fact on the voucher.”.

(3) In the case of a repair, the supplier shall—

- (a) ask the patient to produce satisfactory evidence of entitlement, unless the supplier, in cases other than where the patient is an eligible person by virtue of regulation 8(2)(c) or (d), already has satisfactory evidence of entitlement available to him;
- (b) mark on the voucher the letter code specified in column 2 of Schedule 1 which relates to the type of optical appliance to be replaced as set out in column 1 of that Schedule;
- (c) indicate on the voucher the nature of the repair of the appliance to be undertaken and, in particular, whether it comprises—
 - (i) the replacement or repair of one or more lenses included in the appliance and, if so, how many,
 - (ii) the repair of a frame and, if so, whether it is the whole frame, the front of a frame or one or both sides of a frame,
- (d) duly complete the relevant parts of the voucher with—
 - (i) the name and address of the patient,
 - (ii) the patient’s date of birth; and

(e) if the patient has been asked for, but not shown satisfactory evidence of entitlement, record the fact on the voucher.”.

6. At the end of regulation 18 of the 1997 Regulations (payments to suppliers for replacement and repair), add—

“(3) The responsible authority shall also make a payment, to be determined by the Secretary of State, to the supplier to meet or contribute to the cost incurred by the supplier in order to comply with regulation 16(2) or (3)”.

Amendment of 1986 Regulations

7. In regulation 2 of the 1986 Regulations (interpretation), the following shall be inserted in the appropriate alphabetical order—

““day centre” means an establishment in the locality of a Health Authority attended by patients who would have difficulty in obtaining such services from practice premises because of physical or mental illness or disability or because of difficulties in communicating their health needs unaided;

“mobile practice” means a contractor who does not have practice premises in a locality, but who has undertaken to provide general ophthalmic services at day or residential centres in that locality;

“residential centre” means an establishment in the locality of a Health Authority for patients who normally reside in that establishment and who are unable to leave the establishment unaccompanied because of physical or mental illness or disability”.

8.—(1) Regulation 6 of the 1986 Regulations (ophthalmic list) shall be amended in accordance with the following provisions.

(2) In paragraph (3)(b) after “provide general ophthalmic services” add “ , or in the case of a mobile practice, the address to which correspondence in connection with such provision may be sent, and the address of any day or residential centres visited regularly;”.

(3) In paragraph (3)(c) after “at those addresses” add “ , or in the case of day or residential centres, the months in which visits are intended to take place and the planned interval between such visits”.

9. Regulation 13A (sight tests—applications) shall be amended in accordance with the following provisions.

(2) For paragraph (4)(a) substitute—

“(4)(a) Subject to paragraph (5)—

(i) satisfy himself that the person is an eligible person by asking for satisfactory evidence of entitlement, unless the contractor, in cases other than where the patient is a person specified in regulation 13(1)(c), already has satisfactory evidence of it available to him; and

(ii) where the patient has been asked for but not produced satisfactory evidence that he is an eligible person, then the contractor shall record the fact on the patient’s sight test form;”.

(3) After paragraph (5) add the following paragraphs—

“(6) Where the contractor has provided the sight test at the place where the patient normally resides, he shall record on the sight test form the reason given by the patient, or on his behalf, for not being able to leave home unaccompanied.

(7) The contractor may appoint a member of his staff to carry out the requirements placed on him by paragraph (4)(a)(i) and (ii) on his behalf, provided that he ensures that person is given instruction by him to enable him to fulfil the requirements on his behalf.”.

10. In regulation 16 (service of documents on contractors) after “undertaking to provide general ophthalmic services” add “ , or, in the case of a mobile practice, the address notified to the Health Authority as the address to which correspondence may be sent”.

11.—(1) Schedule 1 (terms of service) shall be amended in accordance with the following provisions.

(2) In paragraph 2 (incorporation of provisions)—

(a) for sub-paragraph (b)(iii) substitute—

“(iii) the investigation of excessive issuing of optical vouchers following a sight test.”;

(b) for sub-paragraph (c) substitute—

“regulation 9 of the National Health Service (Optical Charges and Payments) Regulations 1997;(a)”.

(3) In paragraph 3 (premises at which general ophthalmic services are to be provided), for sub-paragraph (2) substitute—

(2) Where requested to do so by or on behalf of a patient, who is—

(a) unable to leave home unaccompanied because of physical or mental illness or disability, a contractor may agree to provide general ophthalmic services at the place at which the patient normally resides; or

(b) attending a day centre, a contractor may agree to provide general ophthalmic services at that day centre.”.

(4) After paragraph 3 insert the following paragraph—

“Visits

3A.—(1) In the case of mobile practices, a contractor shall give the relevant Health Authority notice in accordance with sub-paragraph (2) of any visits which he intends to make to provide general ophthalmic services to at least three persons at day centres or in residential centres in its locality.

(2) The contractor shall notify the Health Authority at least a month in advance of the beginning of the month in which he intends to visit any establishment in its locality and the intervals at which he intends to make return visits.”.

(5) In paragraph 4 (premises and equipment)—

(a) in sub-paragraph (1) after “Subject to” insert “sub-paragraph (1A) and”;

(b) after sub-paragraph (1) insert—

“(1A) In the case of a mobile practice, the contractor shall provide suitable equipment for the provision of the general ophthalmic services which he has undertaken to provide.”;

(c) in sub-paragraph (2) after “Subject to” insert “sub-paragraph (2A) and”;

(d) after sub-paragraph (2) insert—

“(2A) In the case of a mobile practice, the contractor, on receipt of a written request from the relevant Health Authority, shall arrange for an authorised officer of the Secretary of State or of the Health Authority to be allowed to inspect at a reasonable time the facilities and equipment that he uses.”.

(6) In paragraph 5 (notices), for “the National Health Service (Optical Charges and Payments) Regulations 1989” substitute “the National Health Service (Optical Charges and Payments) Regulations 1997”.

(7) For paragraph 6 (records) substitute—

“6.—(1) A contractor shall keep a proper record in respect of each patient to whom he provides general ophthalmic services, giving appropriate details of sight testing.

(2) Subject to paragraph 8(5), a contractor shall retain all such records for a period of seven years, and shall during that period produce them when required to do so by a Health Authority or the Secretary of State—

(a) to an officer authorised by the Secretary of State;

(b) within such period, not being less than 14 days, as the Health Authority or Secretary of State may specify.”.

(a) S.I. 1997/818, which consolidated with amendments the National Health Service (Optical Charges and Payments) Regulations 1989 (S.I. 1989/396).

(8) In paragraph 10 (testing of sight), in sub-paragraph (2) for “he shall so inform the patient’s doctor” substitute “he shall, if appropriate, and with the consent of the patient, inform the patient’s doctor of his opinion.”

Signed by authority of the Secretary of State for Health

14th February 2001

Hunt
Parliamentary Under-Secretary of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Optical Charges and Payments) Regulations 1997 (“the 1997 Regulations”) and the National Health Service (General Ophthalmic Services) Regulations 1986 (“the 1986 Regulations”). The 1997 Regulations provide a scheme for payments to be made by Health Authorities and NHS trusts by means of a voucher system in respect of costs incurred by certain categories of persons in connection with sight tests and the supply, replacement and repair of optical appliances. The 1986 Regulations provide for arrangements for general ophthalmic services under the National Health Service.

Regulations 3 and 4 make amendments to the 1997 Regulations to require the supplier to ask the patient for satisfactory evidence that he is an eligible person when he presents a voucher to obtain an optical appliance under the regulations, unless, in cases other than where the patient is eligible by virtue of his lack of resources, the supplier already has satisfactory evidence. If the patient does not do so, the supplier must record the fact on the voucher.

A number of amendments are made to the 1986 Regulations. Regulation 7 amends regulation 2 of the 1986 Regulations to insert some additional definitions. Regulation 8 imposes some additional requirements in respect of mobile practices responsible for the provision of general ophthalmic services.

Regulation 9 amends regulation 13A to provide that a contractor must ask the patient for satisfactory evidence of entitlement that he is an eligible person when the patient applies for a sight test under the Regulations unless, in cases other than where the patient is eligible by virtue of his lack of resources, the contractor already has satisfactory evidence. If the patient cannot produce such evidence, the contractor shall record the fact on the sight test form. In addition, where the contractor has carried out the sight test at a patient’s home, he must record on the sight test form the reason for the patient not being able to leave home unaccompanied.

The Regulations make some amendments to the terms of service set out in Schedule 1 to the 1986 Regulations. Paragraph 3 of the Schedule is amended to allow contractors to agree to provide general ophthalmic services at day centres or where the patient normally resides in specified circumstances. Provision is made in a new paragraph 3A to require mobile practices to notify the Health Authority in advance when they intend to make visits to day centres or residential centres in that Health Authority’s area. Paragraph 4 is amended to require mobile practices to provide suitable equipment and for this to be inspected, together with their facilities, by a person authorised by the Secretary of State or the Health Authority. Paragraph 6 is amended to provide that records shall be open to the Health Authority but also to the Secretary of State. Paragraph 10 is amended so that information shall only be given to a patient’s doctor following a sight test if it is appropriate and with the consent of the patient.

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£2.00

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E348 3/2001 592257 19585

ISBN 0-11-028766-5



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