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WELSH STATUTORY INSTRUMENTS

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**2003 No. 301 (W.43)**

**NATIONAL HEALTH SERVICE, WALES**

**The National Health Service (Optical Charges and Payments) (Amendment) (Wales) Regulations 2003**

*Made* - - - - - *13th February 2003*

*Coming into force* - - - - - *1st March 2003*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 38, 39, 78(1), 126(4), 127 and 128(1) of, and paragraphs 2 and 2A of Schedule 12 to the National Health Service Act 1977 (1) hereby makes the following Regulations:

**Citation, commencement, interpretation and application**

1.—(1) These Regulations may be cited as the National Health Service (Optical Charges and Payments) (Amendment) (Wales) Regulations 2003, and shall come into force on 1st March 2003.

(2) In these Regulations “the Principal Regulations” (“*y prif Reoliadau*”) means the National Health Service (Optical Charges and Payments) Regulations 1997(2).

(3) These Regulations apply to Wales only.

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(1) 1977 c. 49 (“the 1977 Act”); 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) and Schedule 1, paragraph 1 and Schedule 8; by S.I.1985/39, article 7(12); and by the 1995 Act, Schedule 1, paragraph 28.

Section 126(4) was amended by the 1990 Act, section 65(2) and by the Health Act 1999 (c. 8) (“the 1999 Act”), Schedule 4, paragraph 37(6).

Paragraph 2(1) of Schedule 12 was substituted by the Health and Medicines Act 1988, Schedule 2, paragraph 8(1).

Paragraph 2A of Schedule 12 was inserted by the 1984 Act, Schedule 1, paragraph 3 and amended by section 13(2) and (3) of the 1988 Act.

The functions of the Secretary of State under sections 38, 39, 78(1),126(4), 127 and 128(1) of, and paragraphs 2 and 2A of Schedule 12 to, the 1977 Act were transferred to the National Assembly for Wales by The National Assembly for Wales (Transfer of Functions) Order 1999, S.I.1999/672, article 2 and Schedule 1, as amended by section 66(5) of the 1999 Act.

(2) S.I. 1997/818.

### **Amendment of regulation 9 of the principal Regulations**

2. In regulation 9 of the principal Regulations (issue of vouchers by ophthalmic medical practitioners or opticians) —

(a) after paragraph (1B), insert the following paragraph—

“(1C) Where a patient has indicated—

- (a) that he is an eligible person by virtue of regulation 8(2)(a) or (b); and
- (b) that he requires an additional optical appliance of the same prescription because either—
  - (i) he is suffering from illness and as a consequence of that illness requires such an appliance, or
  - (ii) the issue of such an appliance is required as a result of his exceptional circumstances,

the ophthalmic medical practitioner or optician may issue to the patient, in accordance with paragraph (2) but subject to paragraph (5), a voucher relating to the optical appliance prescribed by the prescription.”;

(b) for paragraph (5) substitute the following paragraph—

“(5) No voucher shall be issued as provided for by paragraph (1C) unless the responsible authority is satisfied, after making such enquiries as it considers relevant, that the patient’s requirement for an additional optical appliance of the same prescription arose as a consequence of the patient’s illness, or for such other reason that it accepts as being exceptional in the circumstances of the patient’s case.”

(c) after paragraph (5) insert the following paragraph—

“(6) Unless paragraph (1A), (1C) or regulation 11 applies, not more than one voucher shall be issued to a patient in respect of any one optical appliance prescribed.”.

### **Amendment of regulation 12 of the principal Regulations**

3. Regulation 12 of the principal Regulations (use of vouchers for supply of optical appliances) shall be amended—

(a) after sub-paragraph (b) of paragraph (4), insert the following sub-paragraph—

“(c) in a case where regulation 9(1C) applies, a declaration that an additional optical appliance of the same prescription is required either as a consequence of his illness, or as a result of his exceptional circumstances.”;

(b) after paragraph (5) insert the following paragraph—

“(6) In a case where regulation 9(1C) applies, a supplier intending to use a voucher in accordance with paragraph (2) shall first submit it to the responsible authority so that it may be satisfied as to the requirement of an additional optical appliance and give its approval to the use of the voucher.”.

### **Amendment of regulation 13 of the principal Regulations**

4. In regulation 13 of the principal Regulations (payments to suppliers), after paragraph (2)(c) (iv) insert the following sub-paragraph—

“(v) where the claim relates to a voucher issued in accordance with regulation 9(1C), obtained any prior approval required by regulation 12(6).”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(3)

13th February 2003

*Rhodri Morgan*  
The First Minister of the National Assembly

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the National Health Service (Optical Charges and Payments) Regulations 1997 (“the Principal Regulations”).

The Principal Regulations provide for a scheme of 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.

These Regulations make provision for a responsible authority to grant permission to an ophthalmic medical practitioner or optician to issue a voucher to enable the provision of an additional optical appliance of the same prescription to an eligible person within the prescribed category.

Regulation 2 amends regulation 9 of the Principal Regulations which provides that a voucher for an additional optical appliance may be authorised by the responsible authority (that is, the health authority for the area in which the supply of the optical appliance will take place) in cases the patient is a child or a person under the age of 19 years who is receiving full time education who, in either case, is either suffering from an illness, a consequence of which is that the patient requires an additional optical appliance of the same prescription to be supplied, or the requirement arises as a result of circumstances that the responsible authority accepts as being exceptional.

Regulations 3 amends regulation 12 of the principal Regulations which make provision for the procedure to be adopted in cases where entitlement to a voucher for an additional appliance is claimed.

Regulation 4 amends regulation 13 of the principal Regulations to make provision for procedure to be adopted to enable the supplier of an additional optical appliance to receive payment from the responsible health authority.