
STATUTORY INSTRUMENTS

1980 No. 1136

SOCIAL SECURITY

The Social Security (Attendance Allowance) Amendment Regulations 1980

<i>Made</i>	- - - -	<i>1st August 1980</i>
<i>Laid before Parliament</i>		<i>4th August 1980</i>
<i>Coming into Operation</i>		<i>25th August 1980</i>

The Secretary of State for Social Services, in exercise of powers conferred on him by sections 35, 79(1), 81, 85(1), 105(2) and 115 of, and paragraph 10 of Schedule 13 to, the Social Security Act 1975(1) and of all other powers enabling him in that behalf, hereby makes the following regulations which relate only to matters which, in accordance with that Act, have been referred to the Attendance Allowance Board and which accordingly, by virtue of section 139(2) and paragraph 16 of Schedule 15, are not subject to the requirements of section 139(1) for prior consultation with the National Insurance Advisory Committee.

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Attendance Allowance) Amendment Regulations 1980 and shall come into operation on 25th August 1980.

(2) In these regulations—

“the principal regulations” means the Social Security (Attendance Allowance) (No. 2) Regulations 1975(2), and

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1979(3).

Amendment of regulation 3 of the principal regulations

2.—(1) For paragraph (a) of regulation 3 of the principal regulations (adults in hospital) there shall be substituted the following—

“(a) in a health service hospital, within the meaning of the National Health Service Act 1977 or the National Health Service (Scotland) Act 1978, or other hospital or similar

(1) section 35 was amended by section 2 of the Social Security Act 1979 (c. 18) and by paragraph 8 of Schedule 1 to the Social Security Act 1980 (c. 30).
(2) relevant amending instruments are S.I. 1979/375, 1979/1684.
(3) to which there are amendments not affecting the subject of these regulations.

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institution maintained or administered by or on behalf of the Secretary of State or the Defence Council; or”

(2) In paragraph (b) of that regulation for the words after “under” there shall be substituted—
“either of those Acts, in a hospital or similar institution other than one to which paragraph (a) applies;”

Amendment of regulation 5A of the principal regulations

3. After paragraph (1) of regulation 5A of the principal regulations (qualifying period for entitlement after an interval of non-entitlement) there shall be inserted the following paragraph—

“(1A) This regulation also has effect in a case where a beneficiary applies for review of an award of an allowance at the lower rate if the condition in paragraph (1)(b)—substituting in it, for the reference to the claim a reference to the application for review—is satisfied in relation to a period immediately preceding the date of such application.”

New regulation to be inserted in Part IIIA of the principal regulations

4. At the end of Part IIIA of the principal regulations(4) there shall be inserted the following new regulation—

““Allowance payable before the date of claim in renewal cases

5D. If, on a fresh claim for an attendance allowance made within 6 months of the expiry of a certificate issued by the Board under section 35(2) of the Act, being a certificate by virtue of which attendance allowance has been duly paid, the Board determine that one or both the medical conditions for a certificate are satisfied and have been satisfied throughout the period since such expiry, the provision of section 35(4) rendering an allowance not payable for any period preceding the date of claim shall not apply to that fresh claim.”

New regulation to be inserted in Part V of the principal regulations

5. At the end of Part V of the principal regulations there shall be inserted the following new regulation—

““Non-disclosure of evidence available to the Board

9A. Where in connection with review of a determination under section 106 of the Act there is available to the Board medical advice or medical evidence relating to a disabled person (whether the claimant or not) that has not been disclosed to the claimant and, in the opinion of the Board, its disclosure would be harmful to his health, that advice or evidence shall not be required to be disclosed to him, but the Board shall not, by reason of such non-disclosure, be precluded from taking it into account for the purposes of their determination.”

Amendment of Claims and Payments Regulations

6.—(1) After paragraph (1) of regulation 2 of the Claims and Payments Regulations there shall be inserted the following paragraph—

“(1A) The provision in paragraph (1) for the interpretation of the words “claim for benefit” shall not be taken to preclude the application of the regulations to a claim for attendance allowance expressed as an application for review of an earlier determination but which discloses no grounds on which such a determination could be reviewed.”

(4) Part IIIA was inserted by regulation 2 of S.I. 1979/375.

(2) For regulation 18 of the Claims and Payments Regulations there shall be substituted—

“Attendance allowance payable at a daily rate between periods when no allowance is payable

18.—(1) Where—

- (a) an attendance allowance is payable for a period that begins immediately after one in which by reason of the application of regulation 3, 4 or 7 of the Social Security (Attendance Allowance) (No. 2) Regulations 1975 (persons in hospital or living in specified accommodation), the allowance is not payable, and
- (b) it is expected that within 13 weeks of that allowance becoming payable it will again, by reason of the application of any such regulation, cease to be payable,

that allowance shall be payable, so long as the period does not continue for more than 13 weeks, at the daily rate of 1/7th of the weekly rate and shall be paid in arrears at weekly intervals, or at such other intervals as the Secretary of State may in any case direct.

(2) In this regulation “13 weeks” means a period of 91 consecutive days.”

1st August 1980

Patrick Jenkin
Secretary of State for Social Services

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EXPLANATORY NOTE

These regulations amend the Social Security (Attendance Allowance) (No. 2) Regulations 1975 (the “principal Regulations”) and, as respects attendance allowance only, the Social Security (Claims and Payments) Regulations 1979.

Regulation 2 adds a reference to the Defence Council and updates references to health legislation in regulation 3 of the principal Regulations, the effect of which is to render an allowance not payable when a person is in hospital. Regulation 5A of the principal Regulations makes special provision for satisfying the six months qualifying period in cases of relapse; regulation 3 of these regulations adds a new paragraph enabling that regulation to apply to applications for review of awards of an allowance at the lower rate, as well as to claims. Regulation 4 enables an award to cover a period of not more than six months since the expiry of a certificate relating to earlier attendance requirements though that period precedes the date of claim. Regulation 5 relates to non-disclosure to the claimant by the Attendance Allowance Board of medical information considered harmful to his health.

Regulation 6 amends the Social Security (Claims and Payments) Regulations 1979. Paragraph (1) establishes that those Regulations apply to a claim expressed as an application for review of an earlier determination but where no grounds for such review are disclosed. Paragraph (2) provides for payment of an allowance at a daily instead of a weekly rate during an interval between periods when, by reason of provisions of the principal Regulations concerning persons in hospital or other defined accommodation, no allowance is payable.