

1987 No. 445

**NATIONAL HEALTH SERVICE, ENGLAND AND
WALES**

**The National Health Service (Service Committees and
Tribunal) Amendment Regulations 1987**

<i>Made - - - -</i>	<i>16th March 1987</i>
<i>Laid before Parliament</i>	<i>26th March 1987</i>
<i>Coming into force</i>	<i>1st May 1987</i>

The Secretary of State for Social Services, in exercise of powers conferred on him by sections 35(1), 36(1) and 37(a) of the National Health Service Act 1977(a) and of all other powers enabling him in that behalf and after consultation with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971(b), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the National Health Service (Service Committees and Tribunal) Amendment Regulations 1987 and shall come into force on 1st May 1987.

Amendment of Regulations

2.—(1) The National Health Service (Service Committees and Tribunal) Regulations 1974(c) are amended in accordance with the following paragraphs of this regulation.

(2) For regulation 21 (appeals from Dental Estimates Board) there is substituted the following regulation—

“Appeals from Dental Estimates Board

21.—(1) Any person aggrieved by a decision of the Dental Estimates Board (“the Board”) concerning the treatment or intended treatment of a patient as part of general dental services, and any dentist aggrieved by a decision of the Board concerning fees in respect of his provision or intended provision of general dental services, may, in accordance with paragraphs (2) and (3), appeal against the decision to the Committee administering the arrangements under which the services were or were intended to be provided.

(a) 1977 c. 49; for the definitions of “prescribed” and “regulations” see section 128(1): section 35(1) was substituted by S.I. 1985/39, Article 7(9); section 36 was re-numbered 36(1) by the Health and Social Security Act 1984 (c.48), Schedule 3, paragraph 5(1).

(b) 1971 c. 62; paragraph 17(a) of Schedule 1 was substituted by paragraph 134 of Schedule 4 to the National Health Service Reorganisation Act 1973 (c.32) and amended by paragraph 53(a) of Schedule 15 to the National Health Service Act 1977.

(c) S.I. 1974/455; the relevant amending instrument is S.I. 1985/39.

- (2) Notice of appeal shall—
 - (a) be given in writing;
 - (b) except where the Committee are satisfied that the lateness of the appeal is due to illness or other reasonable cause, be given within one month of the date on which the aggrieved person was informed of the Board's decision;
 - (c) state the date on which the aggrieved person was informed of that decision; and
 - (d) contain a concise statement of the facts and contentions upon which it is intended to rely.
- (3) Notice of appeal shall be given by or with the authority of the aggrieved person, except that—
 - (a) where he is incapable of acting by reason of age, sickness or infirmity, it may be given by a person on his behalf even though not with his authority;
 - (b) where the appeal concerns fees and the dentist is deceased, it may be given by his personal representatives.
- (4) The Committee shall within 28 days of receipt of the notice of appeal request from the Board a written statement of the reasons for its decision, and the Board shall within 28 days of receipt of the request send such a statement to the Committee.
- (5) The Committee shall consider the notice of appeal and the Board's statement and—
 - (a) where, after consulting the Local Dental Committee, the Committee are of the opinion that the notice discloses no reasonable grounds of appeal or that the appeal is otherwise vexatious or frivolous, they may dismiss it forthwith;
 - (b) where the appeal is against a refusal of the Board to approve an estimate on the ground that the services to which the estimate relates cannot be provided as part of general dental services, the Committee shall refer the notice of appeal and the Board's statement to the Secretary of State and, on doing so, shall inform the parties of the referral;
 - (c) where on an appeal against a decision of the Board concerning fees the Board certifies in its statement that it authorised those fees and that they were the fees or maximum fees prescribed by Determination I of the Statement of Dental Remuneration for the services provided or to be provided, the Committee shall dismiss the appeal forthwith unless they are of the opinion that it involves a dispute as to the item or sub-item of treatment in that Determination applicable to the services provided or intended to be provided;
 - (d) except where an appeal is dismissed or referred in accordance with the preceding provisions of this paragraph, the Committee shall within 28 days of receipt of the Board's statement appoint two dentists as referees to determine the appeal, one of whom they shall select from a panel of dentists who are or have been engaged in the provision of general dental services and who are nominated by the Local Dental Committee or by the Local Dental Committee for another locality.
- (6) Where the Committee dismiss an appeal they shall inform the parties accordingly and, in the case of dismissal under paragraph (5)(c), shall send to the appellant a copy of the Board's statement.
- (7) Where an appeal is referred to the Secretary of State, he shall determine the appeal in such manner as he thinks fit, and shall give written notice of his decision and of the reasons for it to the appellant, the Board and the Committee.
- (8) Where referees are appointed they shall, subject to paragraph (10), hear the representations of the parties on a date appointed by the Committee for that purpose, and the Committee shall—
 - (a) at least 14 days before that date (or within such shorter period as the parties may agree), give written notice to the parties of the date, time and place of the hearing and of the names of the referees;
 - (b) at least 7 days before that date (or within such shorter period as the parties may agree), provide—

(i) the referees and the appellant with a copy of the Board's statement and

(ii) the referees and the Board with a copy of the notice of appeal.

(9) A party to an appeal which is to be determined by referees following a hearing shall not without their consent (which may be given before or during the hearing) be entitled to rely upon any facts or contentions not contained in the notice of appeal or the statement of the Board, unless that party gives written notice of those facts or contentions to the referees and to the other party to the appeal at least 7 days before the date of the hearing.

(10) Where each party to an appeal has given written notice to the Committee that it is not intended to make representations at a hearing, the Committee shall inform the referees accordingly, and the referees shall determine the appeal without a hearing.

(11) The referees shall within 7 days after determining an appeal give the Committee written notice of their decision and of the reasons for it, and the Committee shall within 14 days of receiving the notice send copies of it to the parties.

(12) For the purposes of this regulation, the parties to an appeal are the Board and the appellant, that is to say the aggrieved person or, where another person has given notice of appeal in accordance with paragraph (3), that other person."

(3) In regulation 53 (power of Secretary of State to extend time for appeals), for "20 to 23" there is substituted "20, 22, 23".

Application

3. These Regulations apply in relation to decisions of the Dental Estimates Board made on or after 1st May 1987.

Transitional provision

4. Nothing in these Regulations shall apply in respect of or affect the validity, continuance or determination of any appeal from a decision of the Dental Estimates Board made before 1st May 1987.

Signed by authority of the Secretary of State for Social Services.

16th March 1987.

Edwina Currie
Parliamentary Under-Secretary of State,
Department of Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations substitute regulation 21 (appeals from the Dental Estimates Board) of the National Health Service (Service Committees and Tribunal) Regulations 1974.

The major changes of substance effected by these Regulations are as follows:

- (a) to provide for notices of appeal from decisions of the Dental Estimates Board to be given to Family Practitioner Committees rather than to the Secretary of State;
- (b) to confine the right of appeal in matters concerning fees to the dentist;
- (c) to require referees who determine appeals to give written reasons for their decisions.

The Regulations, which apply in relation to decisions of the Dental Estimates Board made on or after 1st May 1987 (regulation 3), also effect a consequential amendment (regulation 2(3)) and contain a transitional provision (regulation 4).

The Statement of Dental Remuneration referred to in the substituted regulation 21 is published by the Department of Health and Social Security and the Welsh Office. It is distributed free of charge to Family Practitioner Committees and those providing general dental services under the national health service. Others wishing to obtain a copy can apply to the Department of Health and Social Security, Branch FPS2A(3), Hannibal House, Elephant and Castle, London SE1.

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