
STATUTORY INSTRUMENTS

2013 No. 461

**The National Health Service (Optical
Charges and Payments) Regulations 2013**

PART 4

PAYMENTS FOR COST OF SUPPLY OF OPTICAL APPLIANCES

Eligibility for a voucher — supply of optical appliances

8.—(1) A payment must be made as provided for by this Part to meet, or to contribute towards, the cost incurred (whether by way of a charge under the 2006 Act or otherwise) for the supply of an optical appliance for which a prescription has been given for an eligible person in consequence of a sight test (whether or not that sight test took place under the 2006 Act).

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

- (a) a person who is under the age of 16 years;
 - (b) a person who is under the age of 19 years and receiving qualifying full-time education within the meaning of section 180(8) of the 2006 Act (payments in respect of costs of optical appliances and sight tests);
 - (c) a person whose resources are treated, in accordance with paragraph (3), as being less than their requirements;
 - (d) a person whose income resources, as calculated in accordance with Part 4 of, and Schedule 1 to, the Remission Regulations, exceed their requirements as so calculated, but whose patient contribution is less than the face value of a voucher issued to them under this Part, and whose capital resources as so calculated do not exceed the capital limit;
 - (e) a person for whom a prescription is issued for a complex appliance;
 - (f) a prisoner.
- (3) A person's resources must be treated as being less than their requirements if—
- (a) that person is in receipt of income support or is a member of the same family as a person in receipt of income support;
 - (b) that person's income resources, as calculated in accordance with Part 4 of, and Schedule 1 to, the Remission Regulations, do not exceed their requirements as so calculated, or exceed their requirements by fifty per cent or less of the amount of the charge specified in regulation 3(1)(b) of the National Health Service (Charges for Drugs and Appliances) Regulations 2000(1) (supply of drugs and appliances by chemists), and their capital resources as so calculated do not exceed the capital limit;
 - (c) that person is a member of the same family as a person described in sub-paragraph (b);

- (d) that person is in receipt of an income-based jobseeker’s allowance or is a member of the same family as a person in receipt of an income-based jobseeker’s allowance;
 - (e) that person is a member of a family, one member of which is receiving—
 - (i) working tax credit and child tax credit;
 - (ii) working tax credit which includes a disability element or severe disability element; or
 - (iii) child tax credit, but is not eligible for working tax credit;
 - (f) that person is a member of a family where the relevant income of the person or persons to whom an award of tax credit is made under section 14 of the Tax Credits Act 2002 (initial decisions) is determined at the time of the award not to exceed £15,276;
 - (g) that person is a member of a family, in respect of which there is a current notice of entitlement under regulation 13;
 - (h) that person is receiving pension credit guarantee credit or is a member of the same family as a person who is receiving pension credit guarantee credit;
 - (i) that person is in receipt of income-related employment and support allowance, or is a member of the same family as a person in receipt of income-related employment and support allowance; or
 - (j) during the period beginning on 29th April 2013 and ending on 31st October 2013, that person is—
 - (i) the recipient of an award of universal credit either as a single person or as a member of a couple;
 - (ii) a child or qualifying young person for whom a recipient referred to in sub-paragraph (i) is responsible (within the meaning of Part 1 of the Welfare Reform Act 2012⁽²⁾ and regulations made thereunder); or
 - (iii) a member of a couple, the other member of which is the recipient of an award of universal credit as a single person.
- (4) In paragraph (3), in—
- (a) sub-paragraphs (a), (c) and (h), “family” has the meaning given to it by section 137(1) of the Social Security Contributions and Benefits Act 1992⁽³⁾ (interpretation and supplementary provisions), as it applies to income support;
 - (b) sub-paragraph (d), “family” has the meaning given to it by section 35(1) of the Jobseekers Act 1995⁽⁴⁾ (interpretation);
 - (c) sub-paragraphs (e), (f) and (g), “family” has the meaning given to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002⁽⁵⁾ (interpretation);
 - (d) sub-paragraph (i), “family” has the meaning given to it by regulation 2 of the Employment and Support Allowance Regulations 2008⁽⁶⁾ (interpretation);
 - (e) sub-paragraph (j)—
 - (i) “couple” has the meaning given in section 39 of the Welfare Reform Act 2012 (couples);

(2) 2012 c.5.

(3) The definition of ‘family’ in section 137(1) was amended by paragraph 46 of Schedule 24 to the Civil Partnership Act 2004 (c.33).

(4) The definition of ‘family’ in section 35(1) was amended by paragraph 124 of Schedule 24 to the Civil Partnership Act 2004.

(5) S.I. 2002/2006, amended by S.I. 2005/2919.

(6) S.I. 2008/794.

- (ii) “qualifying young person” has the meaning given in section 10(5) of the Welfare Reform Act 2012 (responsibility for children and young persons);
- (iii) “single person” is to be construed in accordance with section 1(2)(a) of the Welfare Reform Act 2012 (universal credit)”; and
- (iv) “universal credit” means universal credit under Part 1 of the Welfare Reform Act 2012.

(5) For the purposes of regulation 10 and other provisions of this Part that apply to payments where the sight test was carried out by an NHS trust or NHS foundation trust, a person is also an eligible person if, because of the frequency with which the condition of their eyes changes, they are considered by the NHS Trust or NHS foundation trust to be non-tolerant of their existing optical appliance.

Issue of vouchers by ophthalmic practitioners

9.—(1) An ophthalmic practitioner who, following a sight test under the POS Regulations, issues a prescription for an optical appliance to a person who has indicated they are an eligible person must, in the circumstances described in paragraph (5), but subject to paragraph (6), issue to the person a voucher relating to the optical appliance prescribed, on the same occasion as issuing the prescription to that person in accordance with regulation 13(2), (5) and (6) of the General Ophthalmic Services Contracts Regulations 2008(7) (testing of sight).

(2) Where—

- (a) a person has been supplied with an optical appliance following a sight test under the POS Regulations or otherwise;
- (b) the person has indicated that they are an eligible person; and
- (c) the ophthalmic practitioner, having consulted any records they have relating to that person and having made such enquiry of the person as they consider relevant, is satisfied that—
 - (i) the prescription relating to the person’s existing optical appliance is unchanged; and
 - (ii) the person requires a new optical appliance because their existing appliance has been rendered unserviceable by fair wear and tear,

the ophthalmic practitioner must issue to that person a voucher relating to the optical appliance prescribed by the prescription.

(3) Where —

- (a) a person has been issued with a prescription following a sight test under the POS Regulations or otherwise;
- (b) the person has indicated that, following the issue of the prescription, they have become an eligible person; and
- (c) the ophthalmic practitioner, having consulted any records they have relating to that person and having made such enquiry of the person as they consider relevant, is satisfied that—
 - (i) no voucher has been issued in respect of the prescription;
 - (ii) the prescription is unchanged; and
 - (iii) the person requires an optical appliance for the first time or an optical appliance to a prescription the particulars of which differ from those relating to that person’s existing appliance,

the ophthalmic practitioner must issue to that person a voucher relating to the optical appliance prescribed by the prescription.

(4) The ophthalmic practitioner issuing the voucher under paragraphs (1), (2) or (3) must sign it and must—

- (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) complete the relevant parts of the voucher with the name and address of the person, the person's date of birth, particulars of the prescription issued to the person, the date on which the person's sight was tested and the date of issue of the voucher.

(5) The circumstances referred to in paragraph (1) are where the ophthalmic practitioner, having consulted any records they have relating to that person and made such enquiry of the person as they consider relevant, is satisfied that—

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

(6) Where a person requires a prescription for an optical appliance, the particulars of which differ from those relating to their existing appliance only because the person is non-tolerant of that appliance, and has been so since it was supplied, a voucher must not be issued unless the Board, being satisfied that the prescription for that existing appliance was clinically correct, has authorised the issue of a voucher.

(7) Unless paragraph (2) or regulation 11 applies, only one voucher may be issued to a person in respect of any one optical appliance prescribed.

Issue of vouchers by NHS trusts

10.—(1) An NHS trust or NHS foundation trust which, following a sight test, issues a prescription for an optical appliance to a person who—

- (a) has indicated that they are an eligible person; or
- (b) is an eligible person by virtue of regulation 8(5),
must issue to that person a voucher relating to the optical appliance prescribed.

(2) The NHS trust or NHS foundation trust issuing the voucher must—

- (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 the Schedule; and
- (b) complete the relevant parts of the voucher with the name and address of the person, the person's date of birth, particulars of the prescription issued to the person, the date on which the person's sight was tested and the date of issue of the voucher.

Issue of replacement vouchers

11.—(1) This regulation applies where a person makes an application for a replacement voucher within a period of two years beginning on the date a voucher was issued to them under regulation 9 or 10.

(2) The Board may authorise an ophthalmic practitioner to issue the person with a replacement voucher where, having made such enquiries as it considers relevant, it is satisfied that the voucher has been—

- (a) lost; or
- (b) destroyed,

without having been presented to a supplier of optical appliances.

(3) The replacement voucher must be completed in accordance with regulation 9(4)(a) and (b) or 10(2)(a) and (b), but the date of issue of the voucher must be the date on which the replacement is issued.

Use of vouchers for supply of optical appliances

12.—(1) Subject to paragraphs (4), (5) and (6), a person to whom a voucher, completed in accordance with regulation 9, 10 or 11, has been issued may present it to a supplier who supplies or is to supply an optical appliance to them, provided that the arrangements for supply are made within two years of the date on which the voucher was issued.

(2) A supplier may accept the voucher in substitution for payment by the person 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 person must sign on the voucher—

- (a) a declaration to the effect that they are an eligible person, indicating the grounds for such eligibility; and
- (b) an undertaking to the effect that, if they are unable to show that they are an eligible person, they will pay to the Board an amount equal to the voucher's redemption value.

(5) A person who is an eligible person only by virtue of regulation 8(2)(d) or by virtue of their resources being treated in accordance with regulation 8(3)(b) or (c) as being less than their requirements must—

- (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 presenting the voucher to the supplier in accordance with paragraph (1), show a current notice of entitlement to the supplier and permit that supplier to copy such details as may be required for the purpose of regulation 14(2)(c)(iii).
- (6) When the person presents the voucher—
- (a) the supplier must ask that person to produce satisfactory evidence that they are an eligible person, unless the supplier, in cases other than where the person is an eligible person by virtue of regulation 8(2)(c) or (d), already has satisfactory evidence of entitlement; and
 - (b) if the person is requested to produce satisfactory evidence, but does not do so, the supplier must record the fact on the voucher.

Notice of entitlement

13.—(1) Where a person is entitled to the payment of, or contribution towards, the cost incurred for the supply of an optical appliance because they are a member of a family described in regulation 8(3)(e) or (f), the Secretary of State must issue a notice of entitlement to that family.

(2) Such a notice of entitlement shall apply to any member of that family whether or not they are named in the notice of entitlement.

(3) A notice of entitlement issued under paragraph (1) shall be effective from such date and for such period as the Secretary of State may determine.

(4) Any change in the financial or other circumstances of a person who is a member of a family in respect of which a notice of entitlement has been issued under paragraph (1), during the period for which the notice is effective, shall not affect the validity of the notice in respect of that period.

Payments to suppliers

14.—(1) The Board must, if the conditions specified in paragraph (2) are met, make a payment of a voucher's redemption value to a supplier who has accepted the voucher from a person in accordance with regulation 12.

(2) The conditions referred to in paragraph (1) are that—

- (a) the person has signed the declaration and undertaking referred to in regulation 12(4) and acknowledged receipt on the voucher of the optical appliance supplied to them;
- (b) the optical appliance is not sold or supplied in contravention of section 27(1) of the Opticians Act 1989⁽⁸⁾ (sale and supply of optical appliances); and
- (c) the supplier has—
 - (i) made and kept a written record of the supply and issued to the person a receipt for any money received from that person;
 - (ii) made a claim for a payment on a completed voucher to the Board within three months of the date of the supply of the optical appliance;
 - (iii) where the person has shown a notice of entitlement to the supplier, informed the Board of the amount of the patient 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 2, certified that the glasses supplied were small glasses.

Redemption value of voucher for supply of optical appliances

15.—(1) Where an optical appliance was supplied otherwise than under the 2006 Act the redemption value of a voucher is, subject to paragraphs (3) and (4), the lesser of—

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

(2) Where an optical appliance was supplied under the 2006 Act, the redemption value of a voucher is, subject to paragraphs (3) and (4), 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 person for the supply but for this Part; or
- (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) must be reduced by the amount of the patient contribution.

(4) Where the person was an eligible person only because a prescription was issued to them 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 2006 Act; and
- (b) in accordance with directions made by the Secretary of State and pursuant to regulation 2(1), the amount of any charge made for the supply would, but for any maximum charge specified in the directions, have exceeded by any amount the charge actually made, the redemption value must be reduced by the amount of the excess.

(8) 1989 c.44. Section 27(1) of the Opticians Act 1989 was amended by S.I. 2005/848.

