

**EXPLANATORY MEMORANDUM TO
THE NATIONAL HEALTH SERVICE (PRIMARY OPHTHALMIC
SERVICES AND OPTICAL PAYMENTS) (MISCELLANEOUS
AMENDMENTS) REGULATIONS 2014**

2014 No. 418

1. This explanatory memorandum has been prepared by The Department of Health and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

This instrument amends The Primary Ophthalmic Services Regulations 2008, the General Ophthalmic Services Contracts Regulations 2008 and the National Health Service (Optical Charges and Payments) Regulations 2013.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

4. **Legislative Context**

4.1 The Primary Ophthalmic Services Regulations provide for eligibility to NHS sight tests, the General Ophthalmic Services Contracts Regulations provide the framework for general ophthalmic services contracts in England and the National Health Service (Optical Charges and Payments) Regulations 2013 provide for optical vouchers to be given to eligible members of the public to help with the cost of glasses or contact lenses and set the level of that help.

5. **Territorial Extent and Application**

5.1 This instrument applies to England.

6. **European Convention on Human Rights**

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. **Policy background**

- What is being done and why

7.1 The Primary Ophthalmic Services Regulations are amended to give responsibility for recognising qualifying full time education for the purposes of eligibility for NHS sight tests to the NHS Commissioning Board (also known as NHS England) in view of their responsibility for this service.

7.2 The General Ophthalmic Services Contracts Regulations are amended to allow, but not require, claims for general ophthalmic services fees to be

made electronically to allow flexibility in developing payments systems. Electronic payments are already allowed for other primary care contractors. The NHS Commissioning Board is responsible for payments under General Ophthalmic Services contracts and has supported the specific amendment. Pilot projects have allowed electronic claims to be made, but required a parallel paper claim in line with current regulations. The amendment removes the need for this. The intention is that claims, whether made on paper or electronically should be individually signed. Work is underway within the NHS Commissioning Board to ensure appropriate systems to meet their needs and comply with the regulations for claims from 1 April 2014.

7.3 The optical voucher values contained in the National Health Service (Optical Charges and Payments) Regulations 2013 are reviewed annually. Following careful consideration of the needs of patients and balancing that with the impact of rise in the voucher values on NHS costs and wider service affordability, Ministers have agreed to raise the value of optical vouchers by an overall 2%. This is below the current general rate of inflation, but takes into account the fact that patients have wide choice of where to take their voucher and are able to seek best value in a competitive market sector.

7.4 This statutory instrument increases the value of the various vouchers for the 2014/15 financial year by an overall 2%.

- Consolidation

7.5 Consolidation of these regulations will be considered in future.

8. Consultation outcome

8.1 The Department of Health has carried out a targeted consultation with the Optometric Fees Negotiating Committee (which brings together the Association of Optometrists, the Federation of Ophthalmic and Dispensing Opticians, the Association of British Dispensing Opticians and the British Medical Association Ophthalmic Group) and the NHS Commissioning Board on the amendments to the Primary Ophthalmic Services Regulations and the General Ophthalmic Services Contracts Regulations.

8.2 Consultees were all content with the proposed amendments.

8.3 The amendment to the optical payments regulations implements increases to the value of optical vouchers and the specific level of increase has not been the subject of consultation.

8.4 The Department requested information from the optical trade associations and the NHS Commissioning Board on any issues relating to the purchasing power of optical vouchers. Both provided views on the level of increase for 2014/15 which informed consideration alongside data on price movements.

9. Guidance

9.1 The Department of Health does not propose to issue guidance on the amendments to the General Ophthalmic Services Contracts and Primary Ophthalmic Services Regulations. The NHS Commissioning Board is responsible for general ophthalmic services and is fully aware of the amendments and will implement them through their own systems. The NHS Commissioning Board and the optical profession will be advised of the new optical voucher values by way of a letter through the Department of Health website.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no negative impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument as it makes a small number of amendments which create no new requirements. The optical voucher increases made by the Amendment Regulations are below the inflation rate (whether RPI or CPI) and do not therefore require an Impact Assessment. The change made to allow electronic claims is permissive and businesses will be able to continue to make paper claims should they wish.

10.4 Consideration has been given to whether any further impact assessment was required but this was not considered to be necessary. Similarly, no impact on the general public sector Equality Duty or on Secretary of State's general duties under the NHS Act 2006 has been identified. Due regard to these duties has however been made at all times during the formulation of these amending Regulations.

11. Regulating small business

There are no impacts on regulating small businesses by the amendment being made by these regulations.

12. Monitoring & review

12.1 Administration of the NHS sight testing service and the optical voucher system is now the responsibility of the NHS Commissioning Board.

13. Contact

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