

2006 No. 536

HEALTH SERVICES CHARGES

**The Recovery of Health Services Charges (General) Regulations
(Northern Ireland) 2006**

Made - - - - - 21st December 2006

Coming into operation 29th January 2007

The Department of Health, Social Services and Public Safety, in exercise of the powers conferred on it by Articles 2, 4(9), 5(10) and (11), 12(1) to (3), 14(3), 15, 16(4) and 19(3) of, and paragraph 8 of Schedule 1 to, the Recovery of Health Services Charges (Northern Ireland) Order 2006(a), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Recovery of Health Services Charges (General) Regulations (Northern Ireland) 2006 and shall come into operation on 29th January 2007.

(2) In these Regulations—

“certificate” means a certificate issued under Article 4;

“Department” means the Department for Social Development;

“hospital” means a health services hospital within the meaning of Article 2;

“the Order” means the Recovery of Health Services Charges (Northern Ireland) Order 2006.

(3) A reference in these Regulations to a numbered Article or Schedule is a reference to that Article of, or that Schedule to, the Order.

Application for a certificate of health services charges

2.—(1) An application for a certificate shall be made to the Department and shall include the following particulars—

(a) the full name and address of the injured person;

(b) the date of birth, and where known, the national insurance number of that person;

(c) the date on which the injury occurred;

(d) the nature of the injury;

(e) the name and address of any hospital at which the injured person received health services treatment in respect of his injury;

(f) where the applicant has made a compensation payment in respect of the injury, the date on which the payment was made;

(g) where the certificate applied for relates to a claim to which any of the circumstances specified in paragraphs (a) to (f) of Article 5(3) (reduction of health services charges in cases of contributory negligence) applies—

(a) S.I. 2006/1944 (N.I. 13) Article 2 is cited for the definition of “prescribed”

- (i) a statement of the proportion by which the damages payable in respect of the claim are to be reduced to reflect the injured person's share in the responsibility for the injury in question, and
 - (ii) a copy of the order, judgement, minute or document which provides for that reduction; and
- (h) where the certificate applied for relates to a qualifying claim the report referred to in regulation 3(1)(a).
- (2) An application under Article 4(7) must be made not later than 14 days after the date on which the compensation payment is made.
- (3) The prescribed period for the purposes of Article 4(8)(b) (circumstances in which Article 4(7) applies) is 28 days.

Reduction of health services charges in certificates relating to qualifying claims

- 3.—**(1) The circumstances in which the amount specified in a certificate relating to a qualifying claim is to be reduced in accordance with Article 5(10) are where—
- (a) the applicant for the certificate sends to the Department a report which contains the information specified in paragraph (2) and is signed by the parties to the agreement referred to in paragraph (2)(a); and
 - (b) it appears to the Department from that report that the agreement was reached in a fair manner.
- (2) For the purposes of paragraph (1)(a) the following information is specified—
- (a) a statement that it was agreed by or on behalf of the injured person and the person who proposed to make a compensation payment that the damages payable under the settlement were to be reduced to reflect the injured person's share in the responsibility for the injury in question;
 - (b) a statement as to how that agreement was reached;
 - (c) the amount of damages payable under the settlement had there been no such agreement;
 - (d) the amount or proportion by which it was agreed that the damages were to be reduced; and
 - (e) the names of all those involved in the settlement process.

Particulars as to amounts specified in certificate

- 4.** The particulars to which a person to whom a certificate is issued is entitled, in accordance with Article 5(11), are—
- (a) in respect of health services ambulance services counted for the purposes of determining any amount in the certificate—
 - (i) the name of the ambulance trust which provided those services,
 - (ii) the date on which the services were provided, and
 - (iii) the name and address of any hospital to which the injured person was taken; and
 - (b) in respect of health services treatment counted for the purposes of determining any amount in the certificate—
 - (i) the name and address of the responsible body of any hospital at which that treatment took place, and
 - (ii) whether the injured person was admitted to any hospital and if so, the number of days of admission counted at each hospital.

Information to be provided in relation to an injured person

- 5.—**(1) A person specified in Article 12(1)(a) shall send to the Department the information set out in paragraph (3) not later than 14 days after the date on which the claim in respect of the injury is made by or on behalf of the injured person.
- (2) A person specified in Article 12(1)(b) to (e) shall send to the Department such information set out in paragraph (3) as it may request not later than 14 days after the date of the request.
- (3) The information referred to in paragraphs (1) and (2) is—

- (a) the full name and address of the injured person;
 - (b) the full name and address of —
 - (i) the person against whom the claim is made, and
 - (ii) anyone acting on behalf of that person;
 - (c) the date of birth or national insurance number of that person;
 - (d) the date on which the injury occurred;
 - (e) the nature of the injury;
 - (f) in respect of health services treatment received at a hospital in respect of the injury—
 - (i) the name and address of the hospital, and
 - (ii) whether the injured person was admitted to hospital and if so the date of admission and discharge and the type of treatment provided; and
 - (g) in respect of health services ambulance services provided to the injured person as a result of his injury—
 - (i) the name and address of the ambulance trust which provided those services,
 - (ii) the date on which the services were provided, and
 - (iii) the name and address of any hospital to which the injured person was taken.
- (4) The responsible body of each hospital at which the injured person received health services treatment in respect of his injury shall send the following information in relation to that person to the Department not later than 14 days after the date on which the Department requests it—
- (a) the date the treatment began;
 - (b) whether and, if so, the date on which, health services ambulance services were provided to the injured person, as a result of his injury, for the purpose of taking him to a hospital in relation to which it is the responsible body (including taking him from one such hospital to another such hospital);
 - (c) whether the injured person was admitted to a hospital in relation to which it is the responsible body and, if so, the date of admission and discharge;
 - (d) where known, the name and address of any other hospital at which the injured person received treatment; and
 - (e) whether there is likely to be further treatment in respect of the injury.
- (5) Any ambulance trust which provided health services ambulance services to the injured person as a result of his injury shall send the following information to the Department not later than 14 days after the date on which the Department requests it—
- (a) the date on which those services were provided to the injured person as a result of his injury; and
 - (b) the name and address of any hospital to which the injured person was taken for health services treatment.

Payments to hospitals and ambulance trusts

- 6.—**(1) The Department—
- (a) shall make any payment under Article 14(1) (payment to responsible body or relevant ambulance trust) not later than 40 days after the day it receives a payment of relevant health services charges;
 - (b) may make more than one such payment at the same time; and
 - (c) may do so by direct credit transfer.
- (2) In respect of each payment, the Department shall send to the responsible body or relevant ambulance trust a statement showing—
- (a) the name and address of the injured person to whom the statement relates;
 - (b) the amount of the payment; and
 - (c) the date of the incident in respect of which the payment is made.
- (3) Where—
- (a) the Department receives a payment of relevant health services charges; and

- (b) the responsible body of the hospital (“the old body”) or the relevant ambulance trust (“the old trust”) concerned has ceased to exist,

the Department shall pay the amount received to the body to which the property, rights and liabilities of the old body or the old trust have been transferred.

(4) If the property, rights and liabilities of the old body or the old trust have been transferred to more than one body, the Department, may, for the purposes of paragraph (3), divide the payment among those bodies in such manner as it considers appropriate.

Structured settlements

7.—(1) This regulation applies where, apart from the provisions of this regulation, the payments due under an agreement or court order referred to in paragraph (2) would fall to be treated for the purposes of the Order as compensation payments.

- (2) The agreement or court order referred to in paragraph (1) is—
 - (a) an agreement entered into in final settlement of a claim made by or on behalf of an injured person for—
 - (i) the making of periodical compensation payments (whether of an income or capital nature), or
 - (ii) the making of such payments and lump sum payments; or
 - (b) an order by a court which—
 - (i) awards damages to an injured person in respect of injury or death arising out of an incident; and
 - (ii) orders that the damages are wholly or partly to take the form of periodical payments.
- (3) Where this regulation applies—
 - (a) the person liable to make the payment under the agreement or court order shall be taken to have made a single compensation payment on the day of agreement or the date of making of the court order;
 - (b) payments made under the agreement or court order referred to in paragraph (2), and any other payment made to the injured person after the day of agreement or court order in respect of the same incident, shall be taken not to be compensation payments.
- (4) In this regulation, “the day of agreement” means—
 - (a) if the agreement referred to in paragraph (2)(a) is approved by the court, the day on which that approval is given; and
 - (b) in any other case, the day on which the agreement is entered into.

Interim payments repaid under court order

- 8.—(1) This regulation applies where—
- (a) a person has made a payment of relevant health services charges to the Department;
 - (b) that payment relates to a compensation payment which was an interim payment of damages in respect of the injury, the whole amount of which a court has ordered to be repaid; and
 - (c) no other compensation payment has been made by that person to the injured person in respect of the same injury.

(2) Where this regulation applies, the Department shall pay to the person who made the compensation payment the amount of the payment referred to in paragraph (1)(a).

(3) Where this regulation applies and the Department has (under Article 14) paid the amount received to a relevant ambulance trust or a responsible body, the Department may—

- (a) deduct the amount paid to that trust or body from any future payment due under that Article;
- (b) require that trust or body to pay that amount to it; or
- (c) discharge its duty under paragraph (2) by requiring that trust or body to pay that amount to the person who paid the relevant health services charges.

(4) Where the Department makes a deduction or a requirement for payment under paragraph (3), it shall (with the requirement or the payment from which the deduction is made) send the relevant ambulance trust or responsible body a statement showing—

- (a) the name and address of the injured person to whom the statement relates;
- (b) the amount already paid by the Department; and
- (c) whether that amount has been deducted, or payment to the Department or to the person who paid the relevant health services charges is required.

Payments into court

9.—(1) A payment into court made in respect of an injured person shall only be treated as the making of a compensation payment if it is—

- (a) accepted by or on behalf of the injured person within the initial period;
- (b) accepted, after the initial period, in satisfaction of the injured person’s claim by consent between the parties;
- (c) made, after the initial period, in accordance with a court order and in satisfaction of the claim.

(2) In paragraph (1), “the initial period” means the period of 21 days after the receipt by the injured person of notice of the payment into court having been made.

(3) In the circumstances referred to in paragraph (1)(a), the compensation payment shall be treated as having been made on the date on which the payment into court was made.

(4) In the circumstances referred to in paragraph (1)(b), the compensation payment shall be treated as having been made on the date on which the application to the court for payment out is made.

(5) In the circumstances referred to in paragraph (1)(c), the compensation payment shall be treated as having been made on the date of the court order.

Liability of insurers

10. Where—

- (a) a policy of insurance is treated under Article 16(1) as covering a person’s liability under Article 3(2) (liability to pay health services charges);
- (b) under that policy of insurance the amount of cover in respect of the injury is limited to, or by reference to—
 - (i) a maximum sum, or
 - (ii) a proportion of the compensation for which the insured person is liable to pay in respect of the injury; and
- (c) in consequence of the limitation, a proportion of the compensation which the insured person is liable to pay in respect of the injury would not be covered by the policy but for Article 16(1),

the liability imposed on the insurer by Article 16(1) shall be reduced by the same proportion as his liability for the compensation payment.

Exempted payments

11. The following payments are prescribed for the purposes of paragraph 8 of Schedule 1 (exempted payments)—

- (a) an award of compensation made to or in respect of an injured person under the Criminal Injuries Compensation (Northern Ireland) Order 2002(a); and
- (b) any payment made to or in respect of an injured person under the Vaccine Damage Payments Act 1979(b).

(a) S.I. 2002/796 (N.I. 1)
(b) 1979 c. 17

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 21st December 2006.

(L.S.)

Julie Thompson

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EXPLANATORY NOTE

(This note is not part of the Regulations)

The Recovery of Health Services Charges (Northern Ireland) Order 2006 provides for a scheme for the recovery of charges in cases where an injured person who receives a compensation payment in respect of his injury has received health services hospital treatment or ambulance services. The charges are specified in certificates issued by the Department for Social Development and are payable by certain persons who pay compensation to the injured person.

These Regulations make provision as to the following matters in connection with the scheme—

- (a) the particulars to be included in applications for certificates and the period within which certain applications must be made (regulation 2);
- (b) the circumstances where there may be a reduction of the amount of health services charges where the injured person agrees to have shared responsibility for the injury (regulation 3);
- (c) particulars with which a person who is issued with a certificate is entitled to be provided (regulation 4);
- (d) the classes of people who must provide information relating to the injured person to the Department (whether of their own accord or following a request from the Department) and the timeframes within which the information must be provided (regulation 5);
- (e) the manner in which the Department must make payments of health services charges to hospitals and ambulance trusts (including provision where the body who provided the services for which payment is due is no longer in existence) and the information that must accompany those payments (regulation 6);
- (f) application of the scheme in respect of structured settlements (regulation 7), interim payments (regulation 8) and payments into court (regulation 9);
- (g) the limitation of the liability of insurers in respect of compensation payments where the insured person's liability to pay in respect of the injury is greater than that covered by the insurance policy (regulation 10);
- (h) the exclusion of payments made under the Criminal Injuries Compensation (Northern Ireland) Order 2002 and the Vaccine Damage Payments Act 1979 from the scheme (regulation 11).