



# Health and Social Care (Community Health and Standards) Act 2003

## 2003 CHAPTER 43

### PART 3

#### RECOVERY OF NHS CHARGES

##### *Certificates of NHS charges*

#### **151 Applications for certificates of NHS charges**

- (1) Before a person makes a compensation payment in consequence of any injury suffered by an injured person, he may apply for a certificate to the Secretary of State, the Scottish Ministers or both, according to whether he believes the relevant NHS charges payable by him (if any) would be due to the Secretary of State, the Scottish Ministers or both.
- (2) If the Secretary of State receives or the Scottish Ministers receive an application under subsection (1), he or they must arrange for a certificate to be issued as soon as is reasonably practicable (subject to section 152).
- (3) A certificate may provide that it is to remain in force—
  - (a) until a specified date,
  - (b) until the occurrence of a specified event, or
  - (c) indefinitely.
- (4) A person may apply under subsection (1) for a fresh certificate from time to time.
- (5) Subsection (2) does not require the Secretary of State or the Scottish Ministers to arrange for a fresh certificate to be issued to a person applying under subsection (4) if, when the application is received, a certificate issued to the applicant in respect of the injured person is still in force; but the Secretary of State or the Scottish Ministers (as the case may be) may arrange for a fresh certificate to be issued so as to have effect on the expiry of the current certificate.

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- (6) If a certificate expires, the Secretary of State or the Scottish Ministers (as the case may be) may arrange for a fresh certificate to be issued without an application having to be made.
- (7) In the circumstances mentioned in subsection (8), a person who has made a compensation payment in consequence of an injury suffered by an injured person must apply for a certificate to the Secretary of State, the Scottish Ministers or both, according to whether he believes the relevant NHS charges payable by him (if any) would be due to the Secretary of State, the Scottish Ministers or both.
- (8) The circumstances are that—
- (a) at the time the payment is made by the person—
    - (i) no certificate has been issued to him in respect of the injured person, or
    - (ii) if such a certificate has been issued to him, it is no longer in force, and
  - (b) no application for a certificate has been made by him during the prescribed period ending immediately before the day on which the compensation payment is made.
- (9) An application for a certificate must be made in the prescribed manner and, in the case of an application under subsection (7), within the prescribed period.
- (10) On receiving an application under subsection (7), the Secretary of State or the Scottish Ministers must arrange for a certificate to be issued as soon as is reasonably practicable (subject to section 152).
- (11) In this section and section 152, “relevant NHS charges” has the meaning given in section 150(10).

#### Commencement Information

- I1** S. 151 partly in force; s. 151 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I2** S. 151 in force at 29.1.2007 for E.W. in so far as not already in force by S.I. 2006/3397, art. 2(2)(a)
- I3** S. 151 in force at 29.1.2007 for S. in so far as not already in force by S.S.I. 2007/10, art. 2(2)(a)

## 152 Section 151: supplementary

- (1) Subsection (2) applies if—
- (a) an application is made under subsection (1) or (7) of section 151 to the Secretary of State or the Scottish Ministers, and
  - (b) it appears to the Secretary of State or the Scottish Ministers that the relevant NHS charges payable by the applicant (if any) would be due to the Scottish Ministers or the Secretary of State (respectively) instead.
- (2) The Secretary of State or the Scottish Ministers (as the case may be) must refer the application to the Scottish Ministers or the Secretary of State (respectively), and the application is to be treated, for the purposes of this Part, as having been made to the Scottish Ministers or the Secretary of State (as the case may be).
- (3) Subsection (4) applies if—
- (a) an application is made under subsection (1) or (7) of section 151 to the Secretary of State or the Scottish Ministers, and

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- (b) it appears to the Secretary of State or the Scottish Ministers that the relevant NHS charges payable by the applicant (if any) would be due in part to him or them and in part to the Scottish Ministers or the Secretary of State (respectively).
- (4) The Secretary of State or the Scottish Ministers (as the case may be) must refer the application to the Scottish Ministers or the Secretary of State (respectively) in so far as the application relates to relevant NHS charges due to them or him, and the application is to be treated, for the purposes of this Part, as having been made to the Secretary of State in so far as it relates to relevant NHS charges due to him under subsection (2) of section 150 and to the Scottish Ministers in so far as it relates to relevant NHS charges due to them under that subsection.
- (5) A certificate may be issued under section 151 jointly by the Secretary of State and the Scottish Ministers specifying—
- (a) an amount (or amounts) for which a person is liable under subsection (2) of section 150 to the Secretary of State, and
  - (b) an amount (or amounts) for which that person is liable under that subsection to the Scottish Ministers,
- in respect of the same injured person in consequence of the same injury.
- (6) In the case of a certificate issued under section 151 specifying an amount (or amounts) as mentioned in paragraphs (a) and (b) of subsection (5), references in the following provisions of this Part to a certificate are to be taken as being to the certificate in so far as it relates to the liability to the Secretary of State or in so far as it relates to the liability to the Scottish Ministers (as the case may require).

#### Commencement Information

- I4** S. 152 in force at 29.1.2007 for E.W. by S.I. 2006/3397, art. 2(2)(a)  
**I5** S. 152 in force at 29.1.2007 for S. by S.S.I. 2007/10, art. 2(2)(a)

### 153 Information contained in certificates

- (1) A certificate must specify the amount (or amounts) for which the person to whom it is issued is liable under section 150(2).
- (2) The amount (or amounts) to be specified is (or are) to be that (or those) set out in, or determined in accordance with, regulations, reduced if applicable in accordance with subsection (3) or regulations under subsection (10).
- (3) If a certificate relates to a claim made by or on behalf of an injured person—
- (a) in respect of which a court in England and Wales or Scotland has ordered a reduction of damages in accordance with section 1 of the Law Reform (Contributory Negligence) Act 1945 (c. 28),
  - (b) in respect of which a court in Northern Ireland has ordered a reduction of damages in accordance with section 2 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 (c. 23),
  - (c) in respect of which a court in a country other than England and Wales, Scotland or Northern Ireland has ordered a reduction of damages under any provision of the law of that country which appears to the Secretary of State or

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- the Scottish Ministers (as the case may be) to correspond to section 1 of the Law Reform (Contributory Negligence) Act 1945,
- (d) in respect of which an officer of a court in England and Wales or Northern Ireland has entered or sealed an agreed judgement or order which specifies—
- (i) that the damages are to be reduced to reflect the injured person's share in the responsibility for the injury in question, and
  - (ii) the amount or proportion by which they are to be so reduced,
- (e) in the case of which the parties to any resulting action before a court in Scotland have executed a joint minute which specifies—
- (i) that the action has been settled extra-judicially, and
  - (ii) the matters mentioned in paragraph (d)(i) and (ii),
- (f) in respect of which a document has been made under any provision of the law of a country other than England and Wales, Scotland or Northern Ireland—
- (i) which appears to the Secretary of State to correspond to an agreed judgement or order entered or sealed by an officer of a court in England and Wales, and
  - (ii) which specifies the matters mentioned in paragraph (d)(i) and (ii),
- (g) in the case of which a document has been made under any provision of the law of a country other than England and Wales, Scotland or Northern Ireland—
- (i) which appears to the Scottish Ministers to correspond to a joint minute executed by the parties to a resulting action before a court in Scotland specifying that the action has been settled extra-judicially, and
  - (ii) which specifies the matters mentioned in paragraph (d)(i) and (ii),
- the amount (or amounts) specified in the certificate is (or are) to be that (or those) which would be so specified apart from this subsection, reduced by the same proportion as the reduction of damages.
- (4) If a certificate relates to an injured person who has not received NHS treatment at a health service hospital or been provided with NHS ambulance services as a result of the injury, it must indicate that no amount is payable to the Secretary of State or the Scottish Ministers (as the case may be) by reference to that certificate.
- (5) Regulations under subsection (2) may, in particular, provide—
- (a) that the amount, or the aggregate amount, specified in a certificate is not to exceed a prescribed sum,
  - (b) for different amounts to be specified in respect of different circumstances or areas,
  - (c) for cases in which an injured person receives treatment at two or more health service hospitals,
  - (d) for cases in which an injured person receives treatment at one or more health service hospitals and is provided with NHS ambulance services,
  - (e) for cases in which liability under section 150(2) is to be apportioned between two or more persons making compensation payments to or in respect of the same injured person in consequence of the same injury,
  - (f) for cases in which a fresh certificate is issued or a certificate is revoked as a result of a review under or by virtue of section 156 or an appeal under section 157 or 159,
  - (g) for the amount specified in a certificate issued by the Secretary of State or the Scottish Ministers to be adjusted to take into account any amount for which the person to whom the certificate is issued is liable under section 150(2),

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in respect of the same injured person in consequence of the same injury, in accordance with a certificate issued by the Scottish Ministers or the Secretary of State (respectively),

- (h) for any matter requiring determination under or in consequence of the regulations to be determined by the Secretary of State or the Scottish Ministers (as the case may require),

and in the case of paragraph (e) may make such provision by modifying this Part.

- (6) Any reference in subsection (5)(a) or (b) to any amount (or amounts) specified in a certificate is to the amount (or amounts) which would be so specified apart from subsection (3) or regulations under subsection (10).
- (7) Regulations under subsection (2) which provide for cases mentioned in subsection (5) (e) may (among other things) provide in the case of each compensator for—
- (a) determining, or re-determining, the amount for which he is liable under section 150(2),
  - (b) giving credit for amounts already paid, and
  - (c) the payment by any person of any balance or the recovery from any person of any excess.
- (8) Regulations under subsection (2) which provide for cases mentioned in subsection (5) (f) may (among other things) provide in the case of any compensator for the matters mentioned in paragraphs (b) and (c) of subsection (7).
- (10) Regulations may make provision as to the circumstances in which the amount (or amounts) specified in a certificate relating to a qualifying claim is (or are) to be that (or those) which would be so specified apart from the regulations, reduced by the same proportion as the reduction of damages.
- (11) A person to whom a certificate is issued is entitled to such particulars of the manner in which any amount (or amounts) specified in the certificate has (or have) been determined as may be prescribed, if he applies to the Secretary of State or the Scottish Ministers (as the case may require) for those particulars.
- (12) Regulations under subsection (2) may be made so as to apply to any certificate issued after the time the regulations come into force, other than one relating to a compensation payment made before that time.

#### Textual Amendments

- F1** S. 153(9) substituted (19.7.2006 for specified purposes, 29.1.2007 in so far as not already in force) by [Health Act 2006 \(c. 28\)](#), [ss. 73, 83\(1\)\(e\)](#); S.I. 2006/3125, art. 4; S.S.I. 2007/9, art. 2(a)

#### Commencement Information

- I6** S. 153 partly in force; s. 153 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I7** S. 153 in force at 29.1.2007 for E.W. in so far as not already in force by [S.I. 2006/3397](#), [art. 2\(2\)\(a\)](#)
- I8** S. 153 in force at 29.1.2007 for S. in so far as not already in force by [S.S.I. 2007/10](#), [art. 2\(2\)\(a\)](#)

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