



National Health Service (Wales) Act 2006

2006 CHAPTER 42

PART 9

CHARGING

Power to charge generally

121 Charges for drugs, medicines or appliances, or pharmaceutical services

- (1) Regulations may provide for the making and recovery in such manner as may be prescribed of such charges as may be prescribed in respect of—
 - (a) the supply under this Act (otherwise than under Part 6 or Chapter 1 of Part 7) of drugs, medicines or appliances (including the replacement and repair of those appliances), and
 - (b) such of the pharmaceutical services referred to in Chapter 1 of Part 7 as may be prescribed.
- (2) Regulations under this section may in particular make provision in relation to the supply of contraceptive substances and appliances under paragraph 8 of Schedule 1.
- (3) This section does not apply in relation to the provision of any relevant dental service (within the meaning of section 125).

122 Exemptions from general charging

- (1) No charge may be made under regulations under section 121(1) in respect of—
 - (a) the supply of any drug, medicine or appliance for a patient who is resident in hospital,
 - (b) the supply of any drug or medicine for the treatment of sexually transmitted disease (otherwise than in the provision of primary medical services),
 - (c) the supply of any appliance (otherwise than in pursuance of paragraph 8(d) of Schedule 1) for a person who is under 16 years of age or is under 19 years of age and receiving qualifying full-time education, or

- (d) the replacement or repair of any appliance in consequence of a defect in the appliance as supplied.
- (2) In subsection (1)(c) “qualifying full-time education” means full-time instruction at a recognised educational establishment or by other means accepted as comparable by the Welsh Ministers.
- (3) For the purposes of subsection (2)—
 - (a) “recognised educational establishment” means an establishment recognised by the Welsh Ministers as being, or as comparable to, a school, college or university, and
 - (b) regulations may prescribe the circumstances in which a person must, or must not, be treated as receiving full-time instruction.

123 Pre-payment certificates

- (1) Regulations under section 121(1) may provide for the grant, on payment of such sums as may be prescribed, of a pre-payment certificate.
- (2) A pre-payment certificate is a certificate which confers on the person to whom it is granted exemption from charges otherwise chargeable under the regulations in respect of drugs, medicines and appliances supplied during such period as may be prescribed.
- (3) Different sums may be prescribed in relation to different periods.

124 Charges in respect of non-residents

- (1) Regulations may provide for the making and recovery, in such manner as may be prescribed, of such charges as the Welsh Ministers may determine in respect of the services mentioned in subsection (2).
- (2) The services are such services as may be prescribed which are—
 - (a) provided under this Act, and
 - (b) provided in respect of such persons not ordinarily resident in Great Britain as may be prescribed.
- (3) Regulations under this section may provide that the charges may be made only in such cases as may be determined in accordance with the regulations.
- (4) The Welsh Ministers may calculate charges under this section on any basis that they consider to be the appropriate commercial basis.

Charging for dental services

125 Dental charging

- (1) Regulations may provide for the making and recovery, in such manner as may be prescribed, of charges for relevant dental services.
- (2) Regulations under subsection (1) may in particular include provision—
 - (a) specifying the amount, or maximum amount, of any charge (or aggregate charge in respect of the provision for two or more relevant dental services),
 - (b) for calculating the amount of any charge,

- (c) for the variation of the amount, or maximum amount, of any charge in cases of a prescribed description,
 - (d) for any charge not to be payable in cases of a prescribed description,
 - (e) for power to direct that a charge is not payable in any particular case,
 - (f) for the repayment of any charge (including provision as to the persons by whom, and manner in which, repayments must be made).
- (3) Regulations under subsection (1) may provide for sums which would otherwise be payable by a Local Health Board or Special Health Authority to persons providing relevant dental services to be reduced by the amount of the charges authorised by the regulations.
- (4) In this section and section 126 “relevant dental services” means—
- (a) dental treatment provided—
 - (i) under section 56(2),
 - (ii) under a general dental services contract, or
 - (iii) in accordance with section 64 arrangements, and
 - (b) the supply of dentures and other dental appliances under this Act.
- (5) Any reference in this section or 126 to the supply of an appliance includes a reference to its repair, adjustment, refitting or replacement and, in the case of dentures, to their being relined or having additions made to them.

126 Exemptions from dental charging

- (1) No charge may be made under regulations under section 125(1) in respect of a relevant dental service provided for any person who at the prescribed time—
- (a) was under 18,
 - (b) was under 19 and receiving qualifying full-time education,
 - (c) was pregnant, or
 - (d) had given birth to a child within the previous 12 months.
- (2) No charge may be made under regulations under section 125(1) in respect of—
- (a) the repair or replacement of any appliance,
 - (b) any appliance supplied to a patient who is resident in a hospital,
 - (c) the arrest of bleeding.
- (3) Subsections (1) and (2)(a) do not apply in relation to—
- (a) the repair or replacement of any appliance of a prescribed description,
 - (b) the repair or replacement of any appliance where it is determined in the prescribed manner—
 - (i) in any case, that the repair or replacement was necessitated by an act or omission of the person supplied, or
 - (ii) in a case where the person supplied was under the age of 16, that the repair or replacement was necessitated by an act or omission, occurring while that person was under that age, of a person having charge of him.
- (4) Subsection (2)(b) does not apply where an appliance is supplied—
- (a) under section 56(2),
 - (b) under a general dental services contract, or

- (c) in accordance with section 64 arrangements.
- (5) Regulations may provide, with respect to any exemption under this section, that it must be a condition of the exemption that—
 - (a) a declaration of the prescribed kind is made in the prescribed form and manner,
 - (b) a certificate or other evidence of the prescribed kind is supplied in the prescribed form and manner.
- (6) In subsection (1)(b) “qualifying full-time education” means full-time instruction at a recognised educational establishment or by other means accepted as comparable by the Welsh Ministers.
- (7) For the purposes of subsection (6)—
 - (a) “recognised educational establishment” means an establishment recognised by the Welsh Ministers as being, or as comparable to, a school, college or university, and
 - (b) regulations may prescribe the circumstances in which a person must, or must not, be treated as receiving full-time instruction.
- (8) In subsection (1)(d), “child” includes a still-born child (within the meaning of the Births and Deaths Registration Act 1953 (c. 20)).

Charging for local pharmaceutical services

127 Charges, recovery of payments and penalties

- (1) Regulations may provide for the making and recovery, in such manner as may be prescribed, of charges for—
 - (a) local pharmaceutical services provided under pilot schemes, or
 - (b) local pharmaceutical services provided under LPS schemes.
- (2) The regulations may in particular provide for—
 - (a) exemptions from charges,
 - (b) the liability to pay charges to be disregarded in prescribed circumstances or for prescribed purposes,
 - (c) section 140 (recovery of certain charges and payments) to apply also in relation to local pharmaceutical services (with or without modification),
 - (d) section 141 (penalties) to apply also in relation to local pharmaceutical services (with or without modification).
- (3) The regulations must secure that the amount charged for any service is the same as the amount that would be charged for that service if it were provided under Chapter 1 of Part 7.

Charging for optical appliances

128 Charges for optical appliances

- (1) Regulations may provide for the making and recovery, in such manner as may be prescribed, of charges in respect of the supply under this Act of optical appliances.
- (2) The amount of the charges may be determined—

- (a) in regulations, or
 - (b) by or in accordance with directions given by the Welsh Ministers.
- (3) Regulations or directions may—
- (a) vary the amount or maximum amount of charges, or
 - (b) provide that the charges are not payable.
- (4) A reference to supply includes a reference to replacement.
- (5) In this Act “optical appliances” means glasses and contact lenses, but regulations may provide for a different definition of optical appliances to have effect for the purposes of this Act.

129 Payments in respect of optical appliances

- (1) The Welsh Ministers must provide by regulations for payments to be made by them or a relevant body to meet, or to contribute towards, the cost incurred (whether by way of charge under this Act or otherwise) for the supply of optical appliances for which—
- (a) a prescription has been given for a person mentioned in subsection (2) in consequence of a sight test under this Act, or
 - (b) a prescription has been given for a person mentioned in subsection (2) in consequence of a sight test otherwise than under this Act which took place in prescribed circumstances.
- (2) The persons are—
- (a) a child,
 - (b) a person whose resources fall to be treated under the regulations as being less than or equal to his requirements,
 - (c) a person of such other description as may be prescribed.
- (3) The Welsh Ministers may by regulations—
- (a) provide for themselves or such relevant body as may be prescribed to contribute to the cost of a sight test which they or the prescribed body accepts as having been incurred by a person whose resources fall to be treated under the regulations as exceeding his requirements but only by an amount calculated under the regulations, and
 - (b) provide for payments to be made by them or by such relevant body as may be prescribed to meet, or to contribute towards, any cost accepted by them or by the prescribed body as having been incurred (whether by way of charge under this Act or otherwise) for the replacement or repair in prescribed circumstances of optical appliances for which a prescription was given in consequence of a sight test of a person of a prescribed description.
- (4) Regulations under this section may direct how a person’s resources and requirements must be calculated and may, in particular, direct that they must be calculated—
- (a) by a method set out in the regulations,
 - (b) by a method described by reference to a method of calculating or estimating income or capital specified in an enactment other than this section or in an instrument made under an Act of Parliament or by reference to such a method but subject to prescribed modifications,
 - (c) by reference to an amount applicable for the purposes of a payment under an Act of Parliament or an instrument made under an Act of Parliament, or

- (d) by reference to the person's being or having been entitled to payment under an Act of Parliament or an instrument made under an Act of Parliament.
- (5) Descriptions of persons may be prescribed for the purposes of this section by reference to any criterion and, in particular, by reference to any of the following criteria—
- (a) their age,
 - (b) the fact that a prescribed person or a prescribed body accepts them as suffering from a prescribed medical condition,
 - (c) the fact that a prescribed person or a prescribed body accepts that a prescribed medical condition from which they suffer arose in prescribed circumstances,
 - (d) their receipt of benefit in money or in kind under any enactment or their entitlement to receive any such benefit,
 - (e) the receipt of any such benefit by other persons satisfying prescribed conditions or the entitlement of other persons satisfying prescribed conditions to receive such benefits, and
 - (f) the relationship, as calculated in accordance with the regulations by a prescribed person, between their resources and their requirements.
- (6) Regulations under this section which refer to an Act of Parliament or an instrument made under an Act of Parliament may direct that the reference must be construed as a reference to that Act or instrument—
- (a) as it has effect at the time when the regulations are made, or
 - (b) both as it has effect at that time and as amended subsequently.
- (7) In subsection (2)(a) “child” means—
- (a) a person who is under the age of 16 years, or
 - (b) a person who is under the age of 19 years and receiving qualifying full-time education.
- (8) In subsection (7)(b) “qualifying full-time education” means full-time instruction at a recognised educational establishment or by other means accepted as comparable by the Welsh Ministers.
- (9) For the purposes of subsection (8)—
- (a) “recognised educational establishment” means an establishment recognised by the Welsh Ministers as being, or as comparable to, a school, college or university, and
 - (b) regulations may prescribe the circumstances in which a person must, or must not, be treated as receiving full-time instruction.
- (10) If regulations under this section provide for payments to be made by a relevant body, the Welsh Ministers must pay to the body, in respect of each financial year, the sum attributable to the body's disbursements under the regulations.
- (11) Sums falling to be paid in pursuance of regulations under this section are payable subject to such conditions as to records, certificates or otherwise as the Welsh Ministers may determine.
- (12) “Relevant body” means a Local Health Board or a Special Health Authority.

Exemptions, etc

130 Remission and repayment of charges

Regulations may provide in relation to prescribed descriptions of person for the remission or repayment of the whole or any part of any charges which would otherwise be payable in pursuance of section 121, 125 or 128.

131 Payment of travelling expenses

Regulations may provide in relation to prescribed descriptions of persons—

- (a) for the payment by the Welsh Ministers, a Local Health Board or an NHS trust, in such cases as may be prescribed, of travelling expenses (including the travelling expenses of a companion) incurred or to be incurred for the purpose of their obtaining any services provided under this Act,
- (b) for the reimbursement by a Local Health Board to an NHS trust and, in such cases as may be prescribed, to another Local Health Board, of such payments,
- (c) for the reimbursement by a Local Health Board to an NHS trust or an NHS foundation trust and, in such cases as may be prescribed, to a Primary Care Trust, of payments made by virtue of section 183(a) of the National Health Service Act 2006 (c. 41).

132 Sections 130 and 131: supplementary

- (1) Descriptions of persons may be prescribed for the purposes of section 130 or section 131 by reference to any criterion and, without prejudice to the generality of this subsection, by reference to any of the following criteria—
 - (a) their age,
 - (b) the fact that a prescribed person or a prescribed body accepts them as suffering from a prescribed medical condition,
 - (c) the fact that a prescribed person or a prescribed body accepts that a prescribed medical condition from which they suffer arose in prescribed circumstances,
 - (d) their receipt of benefit in money or in kind under any enactment or their entitlement to receive any such benefit,
 - (e) the receipt of any such benefit by other persons satisfying prescribed conditions or the entitlement of other persons satisfying prescribed conditions to receive such benefits, and
 - (f) the relationship, as calculated in accordance with the regulations by a prescribed person, between their resources and their requirements.
- (2) Regulations under section 130 or 131 may direct how a person's resources and requirements are to be calculated and, without prejudice to the generality of this subsection, may direct that they are to be calculated—
 - (a) by a method set out in the regulations,
 - (b) by a method described by reference to a method of calculating or estimating income or capital specified in an enactment other than this section or in an instrument made under an Act of Parliament or by reference to such a method but subject to prescribed modifications,
 - (c) by reference to an amount applicable for the purposes of a payment under an Act of Parliament or an instrument made under an Act of Parliament, or

- (d) by reference to the person's being or having been entitled to payment under an Act of Parliament or an instrument made under an Act of Parliament.
- (3) Regulations under section 130 or 131 which refer to an Act of Parliament or an instrument made under an Act of Parliament may direct that the reference is to be construed as a reference to that Act or instrument—
 - (a) as it has effect at the time when the regulations are made, or
 - (b) both as it has effect at that time and as amended subsequently.

Other provisions relating to charging

133 Charges for more expensive supplies

- (1) Regulations may provide for the making and recovery of such charges falling within subsection (2) as may be prescribed.
- (2) The charges are charges by the Welsh Ministers or an NHS trust—
 - (a) in respect of the supply of any appliance or vehicle which is, at the request of the person supplied, of a more expensive type than the prescribed type, or
 - (b) in respect of the repair or replacement of any such appliance, or the replacement of any such vehicle, or the taking of any such action in relation to the vehicle as is mentioned in paragraph 10(2) of Schedule 1.

134 Charges for repairs and replacements in certain cases

- (1) Regulations may provide for the making and recovery of such charges falling within subsection (2) as may be prescribed.
- (2) The charges are charges by the Welsh Ministers or an NHS trust in respect of the repair or replacement of any appliance or vehicle, where it is determined in the prescribed manner—
 - (a) in any case, that the repair or replacement was necessitated by an act or omission of the person supplied, or
 - (b) in a case where the person supplied was under the age of 16, that the repair or replacement was necessitated by an act or omission, occurring while that person was under that age, of a person having charge of him.

135 Charges for designated services or facilities

Regulations may provide for the making and recovery of charges in respect of services or facilities designated by the regulations as services or facilities provided in pursuance of section 3(1)(d) or (e).

136 Sums otherwise payable to those providing services

- (1) Subsection (2) applies to regulations under—
 - (a) section 121 (charges for drugs, medicines or appliances, or pharmaceutical service),
 - (b) section 128 (charges for optical appliances),
 - (c) section 133 (charges for more expensive supplies), or
 - (d) section 134 (charges for repairs and replacements in certain cases),

which provide for the making and recovery of charges in respect of any services.

- (2) The regulations may provide for the sums which would otherwise be payable by a Local Health Board or Special Health Authority to the persons by whom the services are provided, to be reduced by the amount of the charges authorised by the regulations in respect of the services.

137 Hospital accommodation on part payment

- (1) The Welsh Ministers—
- (a) may authorise accommodation to be made available for patients to such extent as they may determine, and
 - (b) may recover such charges as they may determine in respect of such accommodation and calculate them on any basis that they consider to be the appropriate commercial basis.
- (2) Accommodation means—
- (a) accommodation in single rooms or small wards which is not needed by any patient on medical grounds,
 - (b) accommodation at any health service hospital or group of hospitals, or a hospital in which patients are treated under arrangements made by virtue of section 10, or at the health service hospitals in a particular area or a hospital in which patients are so treated.
- (3) References in subsection (2) to a health service hospital include references to such a hospital within the meaning of section 275 of the National Health Service Act 2006 (c. 41), but do not include references to a hospital vested in an NHS trust or an NHS foundation trust.

138 Expenses payable by employed patients

- (1) The Welsh Ministers may require any person—
- (a) who is a resident patient for whom the Welsh Ministers provide services under this Act, and
 - (b) who is absent during the day from the hospital where he is a patient for the purpose of engaging in remunerative employment,
- to pay such part of the cost of his maintenance in the hospital and any incidental cost as may seem reasonable to the Welsh Ministers having regard to the amount of that person's remuneration.
- (2) The Welsh Ministers may recover the amount required under subsection (1).

Recovery, etc

139 Recovery of charges

- (1) All charges recoverable under this Act by—
- (a) the Welsh Ministers,
 - (b) a local social services authority, or
 - (c) any body established under this Act,

may be recovered summarily as a civil debt (but this does not affect any other method of recovery).

- (2) If any person, for the purpose of evading the payment of any charge under this Act, or of reducing the amount of any such charge—
- (a) knowingly makes any false statement or false representation, or
 - (b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

the charge or the balance of the charge, may be recovered from him by the person by whom the cost of the service in question was defrayed.

140 Recovery of charges and payments in relation to goods and services

- (1) Where goods or services to which this section applies are provided and—
- (a) any charge payable by any person under this Act in respect of the provision of the goods or services is reduced, remitted or repaid, but that person is not entitled to the reduction, remission or repayment, or
 - (b) any payment under this Act is made to, or for the benefit of, any person in respect of the cost of obtaining the goods or services, but that person is not entitled to, or to the benefit of, the payment,

the amount mentioned in subsection (2) is recoverable summarily as a civil debt from the person in question by the responsible authority.

- (2) That amount—
- (a) in a case within subsection (1)(a), is the amount of the charge or (where it has been reduced) reduction,
 - (b) in a case within subsection (1)(b), is the amount of the payment.
- (3) Where two or more persons are liable under section 139(1) or this section to pay an amount in respect of the same charge or payment, those persons are jointly and severally liable.
- (4) For the purposes of this section, the circumstances in which a person is to be treated as not entitled to a reduction, remission or repayment of a charge, or to (or to the benefit of) a payment, include in particular those in which it is received (wholly or partly)—
- (a) on the ground that he or another is a person of a particular description, where the person in question is not of that description,
 - (b) on the ground that he or another holds a particular certificate, when the person in question does not hold such a certificate or does hold such a certificate but is not entitled to it,
 - (c) on the ground that he or another has made a particular statement, when the person in question has not made such a statement or the statement made by him is false.
- (5) In this section and section 141, “responsible authority” means—
- (a) in relation to the recovery of any charge under section 139(1) in respect of the provision of goods or services to which this section applies, the person by whom the charge is recoverable,
 - (b) in relation to the recovery by virtue of this section of the whole or part of the amount of any such charge, the person by whom the charge would have been recoverable,

- (c) in a case within subsection (1)(b), the person who made the payment.
- (6) But the Welsh Ministers may by directions provide for—
 - (a) the functions of any responsible authority of recovering any charges under this Act in respect of the provision of goods or services to which this section applies,
 - (b) the functions of any responsible authority under this section and section 141, to be exercised on behalf of the authority by another health service body.
- (7) This section applies to the following goods and services—
 - (a) dental treatment and appliances provided in pursuance of this Act,
 - (b) drugs and medicines provided in pursuance of this Act,
 - (c) sight tests,
 - (d) optical appliances,
 - (e) any other appliances provided in pursuance of this Act.

141 Penalties relating to charges

- (1) Regulations may provide that, where a person fails to pay—
 - (a) any amount recoverable from him under section 139(1) in respect of the provision of goods or services to which section 140 applies, or
 - (b) any amount recoverable from him under section 140,a notice (referred to in this section as a penalty notice) may be served on the person by the responsible authority.
- (2) A penalty notice is a notice requiring the person on whom it is served to pay the amount to the authority within a prescribed period, together with a charge (referred to in this section as a penalty charge) of an amount determined in accordance with the regulations.
- (3) The regulations may not provide for the amount of the penalty charge to exceed whichever is the smaller of—
 - (a) £100,
 - (b) the amount referred to in subsection (1)(a) or (b) multiplied by 5.
- (4) The Welsh Ministers may by order provide for subsection (3) to have effect as if, for the sum specified in paragraph (a) or the multiplier specified in paragraph (b) (including that sum or multiplier as substituted by a previous order), there were substituted a sum or multiplier specified in the order.
- (5) Regulations may provide that, if a person fails to pay the amount he is required to pay under a penalty notice within the period in question, he must also pay to the responsible authority by way of penalty a further sum determined in accordance with the regulations.
- (6) The further sum must not exceed 50 per cent of the amount of the penalty charge.
- (7) Any sum payable under the regulations (including the amount referred to in subsection (1)(a) or (b)) may be recovered by the responsible authority summarily as a civil debt.
- (8) But a person is not liable by virtue of a penalty notice—

- (a) to pay at any time so much of any amount referred to in subsection (1)(a) or (b) for which he is jointly and severally liable with another as at that time has been paid, or ordered by a court to be paid, by that other, or
- (b) to a penalty charge, or a further sum by way of penalty, if he shows that he did not act wrongfully, or with any lack of care, in respect of the charge or payment in question.

142 Offences relating to charges

- (1) A person is guilty of an offence if he does any act mentioned in subsection (2) with a view to securing for himself or another—
 - (a) the evasion of the whole or part of any charge under this Act in respect of the provision of goods or services to which section 140 applies,
 - (b) the reduction, remission or repayment of any such charge, where he or the other is not entitled to the reduction, remission or repayment,
 - (c) a payment under this Act (whether to, or for the benefit of, himself or the other) in respect of the cost of obtaining such goods or services, where he or the other is not entitled to, or to the benefit of, the payment.
- (2) The acts referred to in subsection (1) are—
 - (a) knowingly making, or causing or knowingly allowing another to make, a false statement or representation, or
 - (b) in the case of any document or information which he knows to be false in a material particular, producing or providing it or causing or knowingly allowing another to produce or provide it.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) A person, although he is not a barrister or solicitor, may conduct any proceedings under this section before a magistrates' court if he is authorised to do so by the Welsh Ministers.
- (5) Proceedings for an offence under this section may be begun within—
 - (a) the period of three months beginning with the date on which evidence, sufficient in the opinion of the Welsh Ministers to justify a prosecution for the offence, comes to their knowledge, or
 - (b) the period of 12 months beginning with the commission of the offence.
- (6) For the purposes of subsection (5), a certificate purporting to be signed by or on behalf of the Welsh Ministers as to the date on which such evidence as is mentioned in paragraph (a) of that subsection came to their knowledge, is conclusive evidence of that date.
- (7) Where a person is convicted of an offence under this section in respect of any charge or payment under this Act, he is not liable in respect of the charge or payment to pay any penalty charge or further sum by way of penalty which would otherwise be recoverable from him under section 141.
- (8) Where a person pays any penalty charge, or further charge by way of penalty, recoverable under section 141 in respect of any charge or payment under this Act, he must not be convicted of an offence under this section in respect of the charge or payment.

- (9) Subsection (4) of section 140 applies for the purposes of this section as it applies for the purposes of that.