

1975 No. 555

SOCIAL SECURITY

The Social Security (Hospital In-Patients) Regulations 1975

<i>Made</i> - - - - -	3rd April 1975
<i>Laid before Parliament</i>	4th April 1975
<i>Coming into Operation</i>	6th April 1975

The Secretary of State for Social Services, in exercise of powers conferred by sections 81(4)(d), 82(6)(b) and 85(1) of the Social Security Act 1975(a) and section 2 of, and paragraphs 3 and 9 of Schedule 3 to, the Social Security (Consequential Provisions) Act 1975(b) and of all other powers enabling her in that behalf, without having referred any proposals on the matter to the National Insurance Advisory Committee or the Industrial Injuries Advisory Council since it appears to her that by reason of urgency it is inexpedient to do so, hereby makes the following regulations:—

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Social Security (Hospital In-Patients) Regulations 1975, and shall come into operation on 6th April 1975.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

“the Act” means the Social Security Act 1975;

“dependency benefit” means that benefit, pension or allowance which, apart from these regulations, is payable under the Act to a person in respect of another person who is a child, or an adult dependant (including child’s special allowance);

“the Overlapping Benefits Regulations” means the Social Security (Overlapping Benefits) Regulations 1975(c);

“personal benefit” means that benefit, pension or allowance which, apart from these regulations, is payable under the Act to a person otherwise than in respect of another person who is a child or an adult dependant, but does not include earnings-related supplement or addition under sections 14(7), 22(4) and 24(3) of the Act;

(a) 1975 c. 14.

(b) 1975 c. 18.

(c) S.I. 1975/554(1975 I, p. 1918).

“standard rate” means the standard weekly rate specified in Schedule 4 to the Act for Category A retirement pension;

“20% of the standard rate” means an amount equal to 20 per cent. of the standard rate rounded to the nearest 5 pence, 2½ pence being rounded to the next 5 pence above;

“40% of the standard rate” means an amount equal to twice 20% of the standard rate;

and other expressions have the same meanings as in the Act.

(2) For the purposes of these regulations, a person shall be regarded as receiving or having received free in-patient treatment for any period for which he is or has been maintained free of charge while undergoing medical or other treatment as an in-patient—

(a) in a hospital or similar institution maintained or administered under the National Health Service Acts 1946 to 1973 or the National Health Service (Scotland) Acts 1946 to 1973, or by or on behalf of the Secretary of State, or by or on behalf of the Defence Council; or

(b) pursuant to arrangements made by the Secretary of State or by any body in exercise of functions on behalf of the Secretary of State under those Acts in a hospital or similar institution not so maintained or administered;

and a person shall not be regarded as being maintained free of charge in a hospital or similar institution for any period if he is paying or has paid, in respect of his maintenance, charges which are designed to cover the whole cost of the accommodation or services (other than services by way of treatment) provided for him in the hospital or similar institution for that period.

(3) For the purposes of these regulations, unless the context otherwise requires, a beneficiary shall be regarded as having a dependant for any period if in respect of that period there is payable to him, or but for the operation of the Overlapping Benefits Regulations or of these regulations would, if he made a claim for it, be payable to him any one or more of the benefits specified in Schedule 1 to these regulations, and the following provisions shall apply:—

(a) any person in respect of whom any one or more of those benefits is, or would be, payable shall be regarded as a dependant;

(b) if the husband or wife of the beneficiary is temporarily absent from Great Britain for the specific purpose of being treated for incapacity which commenced before he or she left Great Britain, then, when it is being determined for the purposes of this paragraph whether any benefit is, or would be, payable, that absence from Great Britain (and any absence of claim for benefit) shall be disregarded;

(c) in any case where dependency benefit by way of an increase of benefit, whether in respect of a child or an adult dependant, is or would be payable, each such increase of benefit shall be treated as a separate benefit;

(d) two spouses shall not be deemed to have ceased to reside together by reason of any absence of either or both of them while receiving medical or other treatment as an in-patient in a hospital or similar institution, whether such absence is temporary or not.

- (4) Unless the context otherwise requires, any reference in these regulations—
- (a) to a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number;
 - (b) any provision made by or contained in any enactment or instrument shall be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which it re-enacts or replaces, or which may re-enact or replace it, with or without modification.
- (5) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(a) shall apply in relation to this instrument and in relation to any revocation effected by it as if this instrument, the regulations revoked by it and any regulations revoked by the regulations so revoked were Acts of Parliament and as if each revocation were a repeal.

PART II

ADJUSTMENT OF PERSONAL BENEFITS

This Part of these regulations to be subject to Parts IV and V

3. The provisions of this Part of these regulations shall have effect subject to the provisions of Parts IV and V of these regulations.

Circumstances in which personal benefit is to be adjusted

4. Where a person—
- (a) receives, or has received, free in-patient treatment continuously for a period of more than 8 weeks; and
 - (b) satisfies the conditions for the receipt of a personal benefit which is specified in Schedule 2 to these regulations,
- the weekly rate of that benefit shall be adjusted—
- (c) for any part of the period of continuous free in-patient treatment after the first 8 weeks and before the 53rd week, in accordance with regulation 5;
 - (d) for any part of that period after the 52nd week and before the 105th week, in accordance with regulation 6;
 - (e) for any part of that period after the 104th week, in accordance with regulation 7.

Adjustment of personal benefit after 8 weeks in hospital

5. For any part of the period to which regulation 4(c) applies during which—
- (a) the beneficiary has a dependant, the weekly rate of the personal benefit shall be reduced by 20% of the standard rate;
 - (b) he has no dependant, it shall be reduced by 40% of the standard rate,
- so however that where such a reduction would reduce the weekly rate to less than 20% of the standard rate, the reduction shall be such as will reduce it to that 20%.

Adjustment of personal benefit after 52 weeks in hospital

6.—(1) Subject to paragraphs (3) and (4), where a person to whom regulation 4(d) applies has a dependant and makes an application to the Secretary of State in accordance with paragraph (5), the weekly rate of his personal benefit shall be adjusted so that—

- (a) the first 20% of the standard rate is payable to him or to that dependant or some other person mentioned in paragraph (5);
- (b) the next 20% of the standard rate is not payable;
- (c) any excess over 40% of the standard rate is payable on his behalf to that dependant or to some other person mentioned in paragraph (5).

(2) Where a person to whom regulation 4(d) applies has no dependant or has a dependant but has not made an application to the Secretary of State in accordance with paragraph (5), the weekly rate of his personal benefit shall be adjusted so that—

- (a) the first 20% of the standard rate is payable to him;
- (b) the next 40% of the standard rate is not payable;
- (c) any excess over the sums ascertained under sub-paragraphs (a) and (b) shall become payable only if he is discharged from the hospital or similar institution in circumstances to which regulation 15(1) applies and it shall then be payable in accordance with the other provisions of that regulation.

(3) On a day on which the husband or wife of a person to whom regulation 4(d) applies is also receiving free in-patient treatment after having received that treatment continuously for a period of not less than 52 weeks then, notwithstanding regulation 2(3), he or she shall not be regarded as a dependant of that person (and accordingly paragraph (1) shall not apply).

(4) Where any person to whom regulation 4(d) applies is a married woman and the personal benefit is sickness benefit, for any part of the period specified in that regulation during which her husband is also entitled to benefit which includes dependency benefit in respect of her, paragraphs (1) and (2) shall not apply and the weekly rate of her personal benefit shall be adjusted so that 20% of the standard rate is payable.

(5) An application to the Secretary of State for the purposes of this regulation is, in a case where the beneficiary has a dependant, an application by the beneficiary to the Secretary of State to pay such sums as are specified in this regulation on behalf of the beneficiary to that dependant, or to some other person who is approved by the Secretary of State and who satisfies the Secretary of State that he will apply any such sum for the benefit of that dependant.

Adjustment of personal benefit after 104 weeks in hospital

7.—(1) Where a person to whom regulation 4(e) applies has a dependant and makes an application to the Secretary of State in accordance with regulation 6(5), the weekly rate of his personal benefit shall be adjusted as if regulation 6(1) applied.

(2) Where a person to whom regulation 4(e) applies has no dependant or has a dependant but has not made an application to the Secretary of State in accordance with regulation 6(5), the weekly rate of his personal benefit shall be adjusted so that 20% of the standard rate is payable.

(3) For the purposes of this regulation, notwithstanding the provisions of regulation 2(3),—

- (a) where the beneficiary is a woman, her husband shall not be regarded as her dependant where the personal benefit is either—
 - (i) an invalidity pension or unemployability supplement, unless she is receiving an increase of one of those benefits for him, or
 - (ii) a Category A or Category B retirement pension;
- (b) subject to paragraph (4), where the beneficiary is a man, his wife shall not be regarded as his dependant where—
 - (i) the personal benefit is sickness benefit, invalidity benefit, a retirement pension of any category or unemployability supplement, and
 - (ii) his wife is entitled to a Category A retirement pension;
- (c) where the husband or wife of a beneficiary is also receiving free in-patient treatment after having received that treatment continuously for a period of not less than 104 weeks, he or she shall not be regarded as a dependant of that beneficiary.

(4) In a case in which—

- (a) paragraph (3)(b) applies, and
- (b) but for the provisions of that paragraph, the beneficiary's wife would have been regarded as his dependant, and
- (c) the beneficiary has not made an application in accordance with regulation 6(5) in respect of any other person who is his dependant,

paragraph (1) shall not apply and the weekly rate of his personal benefit shall be adjusted so that 40% of the standard rate is payable.

PART III

ADJUSTMENT OF DEPENDENCY BENEFITS

Interpretation of Part III of these regulations

8.—(1) The provisions of this Part of these regulations shall have effect subject to the provisions of Parts IV and V of these regulations.

(2) In this Part of these regulations “in-patient” means a person who is receiving or has received free in-patient treatment.

Circumstances in which dependency benefit is to be adjusted

9. Where—

- (a) a beneficiary or a dependant is or has been an in-patient continuously for a period of more than 8 weeks; and
- (b) the conditions for the receipt by that beneficiary of any dependency benefit under the Act are satisfied,

the weekly rate of that benefit shall be adjusted—

- (c) for any part of the period of continuous free in-patient treatment after the first 8 weeks and before the 53rd week, in accordance with regulation 10;

(d) for any part of that period after the 52nd week and before the 105th week, in accordance with regulation 11;

(e) for any part of that period after the 104th week, in accordance with regulation 12;

except that in any case where the dependant is an in-patient and is a child, the adjustment shall be in accordance with regulation 13.

Adjustment of dependency benefit after 8 weeks in hospital

10. For any part of the period to which regulation 9(c) applies during which—

(a) the husband or wife of the beneficiary is the dependant; and

(b) that dependant is the in-patient (but not the beneficiary),

the weekly rate of the dependency benefit payable shall be reduced by 20% of the standard rate, so however that where such a reduction would reduce the weekly rate to less than 20% of the standard rate, the reduction shall be such as will reduce it to that 20%.

Adjustment of dependency benefit after 52 weeks in hospital

11.—(1) Where during any part of the period to which regulation 9(d) applies—

(a) the husband or wife of the beneficiary is the dependant; and

(b) that dependant is the in-patient (but not the beneficiary),

the weekly rate of the dependency benefit shall be adjusted as if regulation 10 applied.

(2) Where during any part of the period to which regulation 9(d) applies—

(a) the husband or wife of the beneficiary is the dependant; and

(b) both the dependant and the beneficiary are in-patients after each having been an in-patient continuously for a period of more than 52 weeks; and

(c) the beneficiary makes an application to the Secretary of State in accordance with paragraph (5)(a) or (b)(ii);

the weekly rate of the dependency benefit shall be adjusted so that—

(i) it is reduced by 20% of the standard rate or where such a reduction would reduce the weekly rate to less than 20% of the standard rate, the reduction shall be such as will reduce it to that 20%;

(ii) the next 20% of the standard rate is not payable;

(iii) any excess over 40% of the standard rate is payable on his behalf to that dependant or to some other person mentioned in paragraph (5) for the benefit of a child of the beneficiary's family, but shall only be payable to the dependant if he or she is discharged from the hospital or similar institution in circumstances to which regulation 15(1) applies and it shall then be payable in accordance with the other provisions of that regulation.

(3) Where during any part of the period to which regulation 9(d) applies—

(a) the husband or wife of the beneficiary is the dependant; and

(b) both the dependant and the beneficiary are in-patients after each having been an in-patient continuously for a period of more than 52 weeks; and

- (c) the beneficiary has not made an application to the Secretary of State in accordance with paragraph (5)(a) or (b)(ii),

the weekly rate of the dependency benefit shall be adjusted so that 20% of the standard rate is payable.

(4) For any part of the period to which regulation 9(d) applies during which the beneficiary is the in-patient (but not the dependant) no dependency benefit shall be payable unless the beneficiary makes an application to the Secretary of State in accordance with paragraph (5).

(5) An application to the Secretary of State for the purposes of this regulation is an application by the beneficiary to the Secretary of State to pay such sums as are specified on behalf of the beneficiary either—

- (a) to the dependant; or
- (b) to some other person who is approved by the Secretary of State and who satisfies the Secretary of State that he will apply it either—
 - (i) for the benefit of a child of the beneficiary's family, or, as the case may be,
 - (ii) for the benefit of the dependant.

Adjustment of dependency benefit after 104 weeks in hospital

12.—(1) Subject to paragraph (2), for any part of the period to which regulation 9(e) applies during which—

- (a) the husband or wife of the beneficiary is the dependant; and
- (b) that dependant is the in-patient (but not the beneficiary),

the weekly rate of the dependency benefit shall be adjusted so that 20% of the standard rate is payable.

(2) Where, in a case to which paragraph (1) applies,—

- (a) the beneficiary is a man, and
- (b) the dependant is his wife who is residing with him,

the sum specified in paragraph (1) shall not be payable unless he—

- (i) is regularly incurring expenditure in respect of her, or
- (ii) is regularly making, or causing to be made, some payment to her or to some other person for her benefit.

(3) For any part of the period to which regulation 9(e) applies during which the dependant is the husband or wife of the beneficiary and both the beneficiary and the dependant are in-patients after each having been an in-patient continuously for a period of more than 104 weeks, the weekly rate of dependency benefit shall be adjusted so that 20% of the standard rate is payable.

(4) For any part of the period to which regulation 9(e) applies during which the beneficiary is the in-patient (but not the dependant), the weekly rate of dependency benefit shall be adjusted as if regulation 11(4) applied.

Adjustment of dependency benefit in respect of a child in hospital

13. In any case where—

- (a) the dependant is a child; and
- (b) that child receives or has received free in-patient treatment continuously for a period of more than 12 weeks,

no dependency benefit shall be payable unless the beneficiary—

- (i) is regularly incurring expenditure in respect of the child, or
- (ii) is regularly making, or causing to be made, some payment to the child or to some other person for the child's benefit.

PART IV

SUPPLEMENTARY PROVISIONS

Aggregation of personal benefits

14. In any case where 2 or more personal benefits mentioned in Schedule 2 to these regulations are payable to a beneficiary, the weekly rate to be adjusted in accordance with the provisions of Part II of these regulations shall be the aggregate of the weekly rates of those benefits.

Benefit payable on discharge from a hospital or similar institution

15.—(1) Where, by virtue of any provision of these regulations, the payment to a person ("the payee") of any sum by way of benefit is conditional upon the payee's discharge from a hospital or similar institution, that sum ("resettlement benefit") shall not be payable unless and until after the payee's discharge from the hospital or similar institution, the payee proves—

- (a) that his discharge from the hospital or similar institution was effected by and with the approval of a person authorised or empowered to discharge him, and
- (b) that he is neither receiving free in-patient treatment nor residing in any prescribed accommodation,

and in that event there shall be payable only so much resettlement benefit as is payable in accordance with paragraph (2).

(2) Subject to paragraph (3), resettlement benefit shall, during the lifetime of the payee, be payable to him by instalments not exceeding a weekly amount equal to 160 per cent. of the standard rate rounded to the next £1 above, unless, having regard to the circumstances of any particular case, the Secretary of State decides that payment by other instalments or in one sum is desirable, and any resettlement benefit which at the payee's death has not been paid in accordance with this provision shall not be payable.

(3) Where—

- (a) after an interval of less than 28 days, the payee receives further free in-patient treatment for any period or is residing in any prescribed accommodation, the payment of any resettlement benefit shall be suspended for the period of such treatment or residence; or

(b) after an interval of more than 28 days, the payee receives further free in-patient treatment for any period, the amount of any resettlement benefit which, but for this sub-paragraph, would be payable to him in respect of that period shall be reduced or extinguished by deducting from it the amount of any resettlement benefit which, at the commencement of that period, either—

- (i) was payable to him and was unpaid, or
- (ii) would have been so payable to him if the conditions in paragraph (1)(a) and (b) had been satisfied.

(4) For the purposes of this regulation and regulation 17, “prescribed accommodation” means, in relation to any person,—

(a) any hospital accommodation or similar accommodation in which that person is residing or has resided either as a patient or inmate or as a person in need of care and attention and wholly or partly at the cost of a local authority, the Secretary of State, or, under the National Health Service Acts 1946 to 1973, or the National Health Service (Scotland) Acts 1946 to 1973, any body in exercise of functions on behalf of the Secretary of State, or

(b) any residential accommodation provided for that person under Part III of the National Assistance Act 1948(a) or under Part IV of the Social Work (Scotland) Act 1968(b),

but does not include any such accommodation for any period for which he is or was receiving free in-patient treatment.

Adjustment or further adjustment of benefit in certain cases after 52 weeks in hospital

16.—(1) This regulation applies in relation to—

(a) any personal benefit mentioned in Schedule 2 to these regulations (other than age addition or personal benefit in relation to which an application to the Secretary of State in accordance with regulation 6(5) has been made) which, but for this regulation, would be payable to the beneficiary, and

(b) any dependency benefit (other than dependency benefit in relation to which an application to the Secretary of State in accordance with regulation 11(5)(a) or (b)(i) has been made), which, but for this regulation, would be payable in respect of the beneficiary’s wife or husband,

for a period to which regulations 6, 7, 11(2) and (3) and 12(3) apply; and in relation to such benefit, the beneficiary or, in the case of dependency benefit, the beneficiary’s wife or husband, is in this regulation referred to as “the in-patient”.

(2) Where for any period there is in operation a certificate in writing which is given by a medical officer who, at the time it was given, was treating the in-patient, and which states that in the opinion of that officer either—

- (a) no sum, or
- (b) a specified weekly sum (being a weekly sum which is less than the weekly rate of that benefit as adjusted in accordance with the provisions of Part II or III of these regulations),

(a) 1948 c. 29.

(b) 1968 c. 49.

can be applied by or on behalf of the in-patient for his personal comfort or enjoyment, the weekly rate of any benefit to which this regulation applies shall be adjusted so that that sum, if any, shall be payable.

(3) For the purposes of paragraph (2), a certificate shall operate from the date on which it is furnished to the Secretary of State and shall continue in operation unless and until the Secretary of State receives either—

- (a) a notice in writing, given by a medical officer who, at the time it was given, was treating the in-patient, revoking that certificate, or
- (b) another such certificate, relating to the same in-patient, comes into operation.

(4) In relation to any personal benefit, paragraph (2) shall apply only for any period during which—

- (a) the beneficiary is unable to act; and
- (b) the benefit in question is payable, on his behalf, to the body or authority responsible for the management and control of the hospital or similar institution in which he is an in-patient either—
 - (i) because that body or authority is empowered to act on behalf of the beneficiary by virtue of an appointment made by the Secretary of State, or
 - (ii) pursuant to a request to the Secretary of State by a person so empowered.

(5) Notwithstanding the provisions of paragraph (2), any benefit which, by reason only of the application of those provisions, would not be payable to or in respect of the in-patient, shall be payable if—

- (a) the in-patient is discharged from the hospital or similar institution;
- (b) reductions to any benefit to which this regulation applies have been made in accordance with paragraph (2) for more than 52 weeks, and in that case the amount so payable in respect of that benefit shall not exceed the aggregate amount of the reductions so made for the first 52 of those weeks.

(6) In so far as an application made in accordance with regulation 11(5)(a) or (b)(ii) relates to dependency benefit which would be payable but for any reduction falling to be made in accordance with paragraph (2), it shall have effect as if it were an application made by the beneficiary to the Secretary of State for the payment of that dependency benefit to the dependant, but shall only be payable to the dependant if that dependant is discharged from the hospital or similar institution in circumstances to which regulation 15(1) applies and shall then be payable in accordance with the other provisions of that regulation.

Calculation of periods

17.—(1) This regulation shall apply only for the purposes of calculating any period mentioned in Parts II and III of these regulations and regulation 20.

(2) Subject to paragraph (3), where a person has entered a hospital or similar institution for the purpose of receiving there medical or other treatment as an in-patient after having ceased to reside in any prescribed accommodation—

- (a) he shall be regarded as having received free in-patient treatment throughout the period during which he so resided; or

(b) where it has been decided by the appropriate authority that he should be permitted to reside in that prescribed accommodation otherwise than temporarily, the period of that residence (whatever its duration) shall be deemed to have been a period of 52 weeks.

(3) Where a person to whom paragraph (2) applies has ceased to reside either—

(a) in prescribed accommodation in premises managed by a voluntary organisation; or

(b) after 6th April 1975, in prescribed accommodation in a home registered under section 187 of the Public Health Act 1936(a), section 37 of the National Assistance Act 1948 or section 62 of the Social Work (Scotland) Act 1968,

being in either case provided for him under Part III of the National Assistance Act 1948 or under Part IV of the Social Work (Scotland) Act 1968, paragraphs (2) and (4) shall not apply unless and until he shall have received free in-patient treatment for a continuous period exceeding 8 weeks.

(4) Where a person has received (or is regarded under this regulation as having received) free in-patient treatment for 2 or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be regarded as having received such treatment continuously for a period, equal in duration to the total of such distinct periods, ending on the last day of the latter or last of such periods.

(5) Any period during which a person has received free in-patient treatment whilst that person was a serving member of the forces (as defined in regulation 1(2) of the Social Security (Contributions) Regulations 1975(b)) shall be disregarded, unless he was serving or undergoing training or instruction in any of the forces mentioned in Part I of Schedule 5 to those regulations (except the regular naval, military or air forces of the Crown) for a continuous period not exceeding 72 consecutive hours.

Priority of adjustments

18.—(1) Except in any case to which paragraph (2) applies, where any benefit to which these regulations apply falls to be adjusted in accordance with the Overlapping Benefits Regulations or section 91 of the Act the benefit so adjusted in accordance with those provisions shall be the relevant benefit for the purposes of these regulations.

(2) For the purposes of Part III of these regulations, in any case where the beneficiary is a married man and the dependant is his wife, any reference to dependency benefit which, but for the provisions of that Part, would be payable for any period shall, for any period throughout which the dependant is receiving free in-patient treatment and either—

(a) for which personal benefit by way of sickness benefit is payable to her, or

(b) (where the dependency benefit is by way of an increase of a retirement pension) throughout which she is over pensionable age and for which any personal benefit specified in regulation 8(1) of the Overlapping Benefits Regulations is payable to her,

be construed as references to the dependency benefit which, but for the operation of the Overlapping Benefits Regulations and the provisions of Part III, would be payable for the period.

(a) 1936 c. 49.

(b) S.I. 1975/492(1975 I, p. 1516).

Treatment of age addition

19. In any case where age addition would, but for this regulation, be payable to a person to whom a retirement pension is not payable, Part II of these regulations shall not apply so as to reduce that age addition, but where that person is receiving or has received free in-patient treatment continuously for a period exceeding 52 weeks, age addition shall not be payable to that person for any part of the period which falls after the 52nd week and during which the person has not a child or children in his or her family or a wife who resides with him.

PART V

TRANSITIONAL PROVISIONS AND REVOCATIONS

Transitional provisions

20. Any application made or certificate given or period of continuous free in-patient treatment begun under or by virtue of any provision of the National Insurance (Hospital In-Patients) Regulations 1972(a) or the National Insurance (Industrial Injuries) (Hospital In-Patients) Regulations 1971(b), as amended (c), shall be deemed to have been made, given or begun under or by virtue of the corresponding provision of these regulations.

Special provisions for certain tuberculosis patients

21.—(1) This regulation applies to a woman who—

- (a) is entitled to a personal benefit specified in Schedule 2 to these regulations; and
- (b) was entitled to a widow's basic pension under the National Insurance Act 1965(d) immediately before 6th April 1975 by virtue of the insurance of her husband who died before 5th July 1951; and
- (c) is under treatment for tuberculosis of the respiratory system (not being a person under treatment in a hospital or similar institution for the purposes of the Mental Health Act 1959(e) or the Mental Health (Scotland) Act 1960(f)).

(2) In relation to a beneficiary to whom this regulation applies—

- (a) the benefit mentioned in paragraph (1)(b) shall for the purposes of this regulation be treated as payable;
- (b) regulations 5, 6(1) or 7(1) shall not require a greater reduction in the benefits specified in paragraph (1)(a) and (b) than would reduce the aggregate amount payable in respect of them to a sum equal to the aggregate amount which would have been payable in respect of them had they been calculated—
 - (i) in the case of any benefit other than an invalidity benefit, at the rate appropriate to that beneficiary for the period immediately before 20th September 1971, and

(a) S.I. 1972/603 (1972 I, p. 1979).

(b) S.I. 1971/1440 (1971 III, p. 4052).

(c) The relevant amending instrument is S.I. 1972/605 (1972 I, p. 2008).

(d) 1965 c. 51.

(e) 1959 c. 72.

(f) 1960 c. 61.

- (ii) in the case of invalidity pension, at the rate appropriate to that beneficiary for sickness benefit for that period, and
 - (iii) in the case of invalidity allowance, at the rate at which it is payable; had they been adjusted under the provisions of the National Insurance (Hospital In-Patients) Regulations 1949(a), as amended (b), as in force on 19th September 1971 (invalidity pension and invalidity allowance as so calculated for this purpose being aggregated and treated as sickness benefit);
- (c) the provisions of Part II of these regulations shall not operate to permit the aggregate amount payable in respect of those benefits to exceed £2.50.
- (3) This regulation shall cease to have effect when 20% of the standard rate equals or exceeds £2.50.

Revocations

22. The National Insurance (Industrial Injuries) (Hospital In-Patients) Regulations 1971 and the National Insurance (Industrial Injuries) (Hospital In-Patients) Amendment Regulations 1972(c) are hereby revoked.

Signed by authority of the Secretary of State for Social Services.

Brian O'Malley,
Minister of State,
Department of Health and Social Security.

3rd April 1975.

SCHEDULE 1

Regulation 2(3)

BENEFICIARY TO BE REGARDED AS HAVING A DEPENDANT IF ANY OF THESE BENEFITS IS OR WOULD BE PAYABLE

- (a) any dependency benefit;
- (b) an increase of benefit in respect of an adult dependant, if any earnings of that dependant were disregarded otherwise than for the purpose of ascertaining whether or not the beneficiary is or has been wholly or mainly maintaining that dependant;
- (c) an increase of benefit in respect of the beneficiary's wife for any period in respect of which a retirement pension is payable to her, if any earnings of his wife were disregarded;
- (d) a Category A, B or C retirement pension where the beneficiary is the wife of a man to whom a retirement pension is payable and she is residing with him;

(a) S.I. 1949/1461 (1949 I, p. 2718).

(b) The relevant amending instruments are S.I. 1957/2077, 1965/40, 1969/1361 (1957 I, p. 1556; 1965 I, p. 47; 1969 III, p. 4048).

(c) S.I. 1972/605 (1972 I, p. 2008).

- (e) a Category D retirement pension where the beneficiary—
- (i) is a married man residing with his wife, or
 - (ii) is a married woman residing with her husband and he is in receipt of a retirement pension, or
 - (iii) has a child in his or her family;
- (f) an increase of disablement pension in respect of the beneficiary's wife for any period in respect of which any personal benefit is payable to her, if any earnings of his wife were disregarded.

SCHEDULE 2

Regulation 4(b)

PERSONAL BENEFITS

Sickness benefit
Invalidity benefit
Widow's allowance
Widowed mother's allowance
Benefit under section 39 of the Act corresponding to widowed mother's allowance
Widow's pension
Benefit under section 39 of the Act corresponding to widow's pension
Age addition
Retirement pension of any category
Injury benefit
Unemployability supplement
Widow's pension under section 67 of the Act
Widower's pension under section 69 of the Act

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations specify the circumstances in which benefit payable to or in respect of a person under the Social Security Act 1975 may be adjusted when that person is undergoing medical or other treatment as an in-patient in a hospital or similar institution. Part I of the Regulations relates to interpretation; Parts II and III contain provisions relating to adjustment of personal benefits and dependency benefits respectively; Part IV contains supplementary provisions; and Part V relates to transitional provisions and revocations.

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