

1989 No. 395

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service (General Ophthalmic
Services) Amendment Regulations 1989**

Made - - - - - *8th March 1989*

Laid before Parliament *10th March 1989*

Coming into force *1st April 1989*

The Secretary of State for Health, in exercise of powers conferred by sections 38(1), (3), (4), (5), (6) and (7), 39 and 126(4) of the National Health Service Act 1977(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:-

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (General Ophthalmic Services) Amendment Regulations 1989 and shall come into force on 1st April 1989.

(2) In these Regulations, the “principal Regulations” means the National Health Service (General Ophthalmic Services) Regulations 1986(b).

Amendment of regulation 2 of the principal Regulations

2. In regulation 2(1) of the principal Regulations (interpretation) -

(a) after the definition of “the 1984 Act” there is inserted the following definition:-

“ “capital limit” means the amount prescribed for the purposes of section 22(6) of the Social Security Act 1986(c) as it applies to income support;”;

(b) after the definition of “Committee” there is inserted the following definition:-

“ “complex appliance” means an optical appliance at least one lens of which -

(i) has a power in any one meridian of plus or minus 10 or more dioptres,
or

(ii) is a lenticular lens;”;

(a) 1977 c.49; see section 128(1) for the definition of “prescribed” and “regulations”. Section 38 was amended by section 1(3) of the Health and Social Security Act 1984 (c.48) (“the 1984 Act”), and by the Health and Medicines Act 1988 (c.49), section 13; section 39 was amended by section 1(4) of, and paragraph 1 of Schedule 1 to, the 1984 Act and by paragraph 52 of Schedule 1 to the Health Services Act 1980 (c.53). Sections 38 and 39 were each modified by S.I. 1985/39, Article 7. (b) S.I. 1986/975 amended by S.I. 1988/486. (c) 1986 c.50; regulation 45 of the Income Support (General) Regulations 1987 (S.I. 1987/1967) has prescribed the amount of £6,000 as the capital limit.

- (c) after the definition of "doctor" there are inserted the following definitions:-
 " "eligible person" means a person who, in accordance with regulation 13, may have his sight tested under general ophthalmic services;
 "family credit" means family credit under Part II of the Social Security Act 1986;
 "general ophthalmic services" means the services which a contractor must provide pursuant to paragraph 10 of the terms of service;
 "income support" means income support under Part II of the Social Security Act 1986 and includes personal expenses addition, special transition addition and transitional addition as defined in regulation 2(1) of the Income Support (Transitional) Regulations 1987(a);";
- (d) after the definition of "locality" there is inserted the following definition:-
 " "notice of entitlement" means a notice issued under regulation 7 of the Remission Regulations for the purposes of remission of charges under the Act;";
- (e) after the definition of "qualifications" there is inserted the following definition:-
 " "the Remission Regulations" means the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988(b) and a reference to those Regulations is to be construed as a reference to them as they have effect on the making of the National Health Service (General Ophthalmic Services) Amendment Regulations 1989 and as amended subsequently;";
- (f) the definition of "sight test" is omitted.

Amendment of regulation 12 of the principal Regulations

3. In regulation 12 of the principal Regulations (payment for services) after paragraph (l) there is inserted -

"(1A) Where in accordance with regulation 13B(4) a Committee has paid to a patient in respect of a testing of sight an amount which exceeds the fee payable to the contractor, in accordance with the Statement, for that testing, it shall deduct the excess from remuneration otherwise payable to the contractor."

Substitution of regulation 13 of the principal Regulations

4. For regulation 13 (sight tests) of the principal Regulations there are substituted the following regulations -

"Sight Tests - eligibility

13.—(1) A person may have his sight tested under general ophthalmic services if, at the time of the testing of sight, he is any of the following -

- (a) a person who is under the age of 16 years;
- (b) a person who is under the age of 19 years and receiving qualifying full-time education within the meaning of section 38(2) of the Act;
- (c) a person whose resources are treated in accordance with paragraph (2) as being less than, or equal to, his requirements;
- (d) a person who requires to wear a complex appliance;
- (e) a person who is registered blind or partially sighted under section 29 of the National Assistance Act 1948(c);
- (f) a person who has been diagnosed as suffering from diabetes or glaucoma;
- (g) a person who is aged 40 or over and is the parent, brother, sister or child of a person who has been diagnosed as suffering from glaucoma.

(a) S.I. 1987/1969, amended by S.I. 1988/521 and 670. (b) S.I. 1988/551. (c) 1948 c.29; section 29(2) and (3) were repealed by the Local Government Act 1972 (c.70).

(2) A person's resources shall be treated as being less than or equal to his requirements if –

- (a) he is in receipt of income support;
- (b) he is a member of the same family as a person who is in receipt of income support;
- (c) he is in receipt of family credit;
- (d) he is a member of the same family as a person who is in receipt of family credit;
- (e) his income resources as calculated in accordance with regulation 6 of, and Schedule 1 to, the Remission Regulations for the purposes of remission of charges under the Act are less than or equal to his requirements as so calculated and his capital resources as so calculated do not exceed the capital limit; or
- (f) he is a member of the same family as a person described in paragraph (e) of this paragraph.

(3) In paragraph (2)(b) and (f) "family" has the meaning assigned to it by section 20(11) of the Social Security Act 1986 as it applies to income support(a) and in paragraph (2)(d) it has the meaning assigned to it by section 20(11) of that Act as it applies to family credit(b).

Sight tests – applications

13A.—(1) An eligible person who wishes to have his sight tested under general ophthalmic services may make an application to any contractor for his sight to be tested.

(2) The application shall be made on a form provided for that purpose to contractors by the Committee and shall contain a written declaration signed by the applicant to the effect that he is an eligible person.

(3) In addition, a person who is an eligible person –

- (a) but only by virtue of regulation 13(1)(c) and (2)(e) or (f) shall show to the contractor a current notice of entitlement;
- (b) but only by virtue of regulation 13(1)(d), shall show to the contractor the prescription for a complex appliance issued to him on the occasion when his sight was last tested;
- (c) but only by virtue of regulation 13(1)(f), shall on a form provided for that purpose to contractors by the Committee provide the contractor with the name and address of his doctor and give his consent to the Committee seeking confirmation of his diabetes or glaucoma from his doctor.

(4) A contractor to whom an application for a testing of sight is made shall, before making any test of the person's sight –

- (a) subject to paragraph (5), satisfy himself that the person is an eligible person and that the requirements of paragraph (2) and such of the requirements of paragraph (3) as are applicable are met;
- (b) ensure that particulars of the patient and the approximate date of the last testing, if any, of his sight are inserted in a sight test form by the patient or on his behalf; and
- (c) satisfy himself that the testing of sight is necessary.

(5) Where an eligible person to whom paragraph (3)(b) applies is unable to meet its requirements, the contractor may, instead of satisfying himself that those requirements are met, satisfy himself that the person is an eligible person by referring to his own records or by measuring the power of the lenses of the person's existing optical appliance by means of a focimeter or other suitable means.

(a) 1986 c.50; see S.I. 1987/1967 regulations 14 to 16 as amended by S.I. 1988/1445 and 663. (b) See S.I. 1987/1913, regulations 6 to 9 as amended by S.I. 1988/660.

Sight test treated as a test under general ophthalmic services

13B.—(1) A person whose sight is tested by a contractor but who was not an eligible person immediately before the testing and –

- (a) who is shown during the testing to fall within the description specified in sub-paragraph (d) of regulation 13(1); or
- (b) who is shown, in accordance with paragraph (3), within 3 months after the testing to fall within either of the descriptions specified in sub-paragraphs (e) or (f) of regulation 13(2),

shall be taken for the purposes of the testing to have so fallen immediately before his sight was tested.

(2) Where paragraph (1) applies the testing shall be treated as a testing of sight under the Act for the purposes of regulation 8(1)(a) of the National Health Service (Optical Charges and Payments) Regulations 1989(a) as well as for the purposes specified in section 38(6)(i) and (ii) of the Act.

(3) For the purposes of paragraph (1)(b) a person is shown to fall within a description specified in sub-paragraph (e) or (f) of regulation 13(2) if he presents to the Committee a notice of entitlement which is effective for a period which includes the date of the testing of sight or for a period beginning no later than 14 days after the date of the testing of sight.

(4) Where a testing of a person's sight is treated by virtue of paragraphs (1)(b) and (3) as a testing of sight under the Act the Committee shall, on being presented with a receipt for, or other evidence of, any fee paid for the testing, and on being satisfied as to its amount, pay to that person an amount equal to that fee.”.

Amendment of terms of service

5.—(1) Schedule 1 to the principal Regulations (terms of service) is amended according to the following provisions of this regulation.

(2) In paragraph 2, for sub-paragraph (c) there is substituted the following:–

“(c) regulation 9(2) to (6) of the National Health Service (Optical Charges and Payments) Regulations 1989(b);”.

(3) In paragraph 5 (notices) for “the National Health Service (Payments for Optical Appliances) Regulations 1986” there is substituted “the National Health Service (Optical Charges and Payments) Regulations 1989”.

Signed by authority of the Secretary of State for Health

8th March 1989

D. Mellor
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (General Ophthalmic Services) Regulations 1986 which provide for the arrangements under which ophthalmic medical practitioners and ophthalmic opticians ("contractors") provide general ophthalmic services.

As a consequence of the Health and Medicines Act 1988, from 1st April 1989 only certain categories of persons will be entitled to sight tests under the general ophthalmic services. Those persons are specified by regulation 4 as children (including those under 19 in full-time education), persons entitled to income support or to family credit or to full remission of certain National Health Service (NHS) charges, persons needing complex optical appliances, the registered blind or partially sighted, diabetics, those suffering from glaucoma and certain relatives of those suffering from glaucoma. Regulation 4 also provides for those shown as a result of the sight test to need a complex optical appliance or who establish entitlement to full remission of NHS charges after the test to be treated as having had their sight tested under general ophthalmic services, so that any fee paid may be recovered from the Family Practitioner Committee. The appropriate adjustment is made to the contractor's remuneration (regulation 3).