
STATUTORY INSTRUMENTS

1996 No. 177

The National Health Service (General Dental Services) (Scotland) Regulations 1996

PART V

payments in consequence of suspension

Interpretation of Part V

26. In this Part of these Regulations—

- (a) “claimant” means a person claiming to be entitled to, or receiving, a payment;
“erasure” means the erasure of a person’s name from the register;
“fees” does not include remuneration by way of salary;
“Health Committee” means the committee of that name being a Committee of the General Dental Council and constituted in accordance with section 2(4) of the Dentists Act 1984⁽¹⁾;
“immediate suspension” means suspension by virtue of an order under section 30(3) of the Dentists Act 1984 except such a suspension terminated by the court under section 30(6) of that Act;
“interim suspension order” means an order under section 32 of the Dentists Act 1984;
“payment” means a payment under this Part of these Regulations;
“register” means the dentists register referred to in section 14(1) of the Dentists Act 1984, and
“registration” means registration in that register;
“suspension date” means the date on which suspension of a person’s registration takes effect;
- (b) a reference to a direction or order of the Health Committee is a reference to a direction or order of that Committee under the Dentists Act 1984.

Entitlement to payment

27.—(1) Payment shall be made as provided for by this Part of these Regulations to a dentist whose registration is suspended by an interim suspension order or by a direction or an order of the Health Committee.

(2) Subject to paragraph (3) no payment shall be made to a person—

- (a) whose registration has been suspended by a direction or order of the Health Committee once he has received payments in respect of 12 months' such suspension, whether in

⁽¹⁾ 1984 c. 24.

respect of the same or a previous period of such suspension, and whether or not those 12 months formed a continuous period;

- (b) in respect of any part of a period of suspension where, in the 2 years immediately preceding the suspension date he received no fees for the provision of general dental services.

(3) In calculating whether a person has received payment in respect of 12 months' suspension under paragraph (2)(a), no account shall be taken of any payment made in consequence of the suspension of his registration by a direction or order of the Health Committee more than five years previously.

(4) No payment shall be made to a person for any part of a period of suspension—

- (a) earlier than 8 weeks before the date on which an application for payment is received by the Health Board, unless that Board is satisfied that the lateness of the application is due to illness or other reasonable cause;
- (b) during which his name is not included in the dental list of any Health Board;
- (c) during which he is absent from the United Kingdom;
- (d) for which he is entitled to any benefit under a contract of insurance against the risk of the suspension of his registration or of the circumstances which led to it, or for which the Health Board is satisfied he could have been so entitled but for his failure to enter into such a contract or to pay any premium due under such a contract;
- (e) during which he is serving a term of imprisonment;
- (f) during which he is remanded in custody in connection with a criminal offence for which he is (then or later) convicted;
- (g) during which he is in breach of any condition of bail in connection with a criminal offence for which he is (then or later) convicted; or
- (h) during which he is suspended by direction of the Tribunal.

Application for payment

28.—(1) An application for payment shall be made to the Health Board in whose dental list the claimant's name was included immediately before the suspension date; and where his name was then included in the list of more than one Health Board, the application shall be made to the Health Board by whom the larger or largest total amount of fees was payable to him in the 2 years immediately preceding that date.

(2) An application for payment shall—

- (a) be made in writing;
- (b) be made by the claimant or, where he is incapable of applying, on his behalf; and
- (c) contain or be supported by such information as the Health Board may reasonably require for the purpose of establishing the claimant's entitlement to payment.

Amounts and times of payment

29.—(1) A Health Board to whom an application for payment is made in accordance with regulation 28, shall, if satisfied, having made such enquiries as it considers relevant, that the claimant is eligible for payment by virtue of regulation 28, determine that he shall in respect of any period for which he is so entitled receive payment which, subject to paragraphs (2) to (6), shall be calculated as follows:—

- (a) where his registration is suspended by a direction or order of the Health Committee—

- (i) £2,984 per month for each of the first 6 months for which he is entitled to payment, whether in respect of one or more periods of such suspension and whether or not those 6 months are consecutive, and
- (ii) £1,492 per month thereafter;
- (b) where his registration is suspended by an interim suspension order—
 - (i) where the period of interim suspension ends with an order for erasure or immediate suspension, £1,492 per month for the period of interim suspension, and
 - (ii) in any other case, £2,984 per month.

(2) Where in the period of 2 years immediately preceding the suspension date the total amount of fees received by the claimant for the provision of general dental services was less than £142,242, payment made to him shall (subject to any further reduction under paragraph (3)) be in the same proportion to the amount otherwise payable in accordance with paragraph (1) as that total amount of fees is to £142,242.

(3) Where the claimant's name was included in the dental list of the Health Board to which the application is made for a period of less than 2 years immediately preceding the suspension date, payment made to him shall be in the same proportion to the amount otherwise payable in accordance with paragraph (1) or paragraph (2) as the number of complete months in that lesser period is to 24.

(4) Where the claimant's registration has been suspended by an interim suspension order or by a direction or order of the Health Committee within a period of 2 years after the expiry of a previous period of such suspension, the references in paragraphs (2) and (3) above to the suspension date shall be taken as references to the suspension date applicable to that previous period.

(5) Where the Health Board has to make a determination as to payment at a time when it does not know whether or not the period of a person's interim suspension will end with an order for erasure or immediate suspension, or whether or not he will be convicted of a criminal offence, it shall make that determination as though his period of suspension did so end or he was convicted of the offence; but it shall review that determination and make appropriate adjustment as to past payment, if subsequently that period does not so end or he is not convicted of the offence.

(6) Any payment shall, so far as is reasonably practicable, be made by the Health Board at the end of each month in arrears, and an appropriate proportion of the monthly amount shall be paid where the claimant is entitled to a payment for part only of a month.

Changes of circumstances

30.—(1) A claimant shall notify the Health Board in writing immediately of any changes in his circumstances which he might reasonably consider might affect his entitlement to, or the amount of, any payment made or to be made to him in terms of this Part, and in particular of erasure, immediate suspension or termination of suspension of his registration.

(2) Where the Health Board considers, whether or not following a notification under paragraph (1), that there has been a change of circumstances affecting a claimant's entitlement to payment, it shall make such adjustment to payment as it considers to be appropriate.

Overpayments

31. Where the Health Board considers that a payment has been made to a claimant in error or in circumstances where he was not entitled to it, it shall, except to the extent that the Secretary of State on the Health Board's application directs otherwise, draw the fact of overpayment to the attention of the claimant and—

- (a) where he agrees that the overpayment has occurred; or

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) where he does not so agree but, the matter having been referred under regulation 8 of the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992 for investigation, the Health Board, or the Secretary of State on appeal, decides that there has been an overpayment,

the overpayment shall be recoverable either by deduction from the fees to which the claimant is otherwise entitled or in some other manner.