

2004 No. 663

NATIONAL HEALTH SERVICE, ENGLAND

**The National Health Service (Charges for Drugs and
Appliances) and (Travel Expenses and Remission of Charges)
Amendment Regulations 2004**

<i>Made</i>	- - - -	<i>10th March 2004</i>
<i>Laid before Parliament</i>		<i>11th March 2004</i>
<i>Coming into force</i>		
<i>Regulations 1 to 4</i>		<i>1st April 2004</i>
<i>Regulations 5 and 6</i>		<i>6th April 2004</i>

The Secretary of State for Health, in exercise of the powers conferred on him by sections 77, 83A, 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, application and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Charges for Drugs and Appliances) and (Travel Expenses and Remission of Charges) Amendment Regulations 2004 and shall come into force on 1st April 2004 except for regulations 5 and 6 which come into force on 6th April 2004.

(2) These Regulations apply to England only.

(3) In these Regulations—

(a) “the Charges Regulations” means the National Health Service (Charges for Drugs and Appliances) Regulations 2000(b).

(b) “the Travel Expenses and Remission of Charges Regulations” means the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(c).

(a) 1977 (c.49). Section 83A was inserted by section 14(1) of the Social Security Act 1988 (c.7) and amended by section 25 of, and paragraph 6 of Schedule 2 to, the Health and Medicines Act 1988 (c.49), section 41(10) of, and paragraph 19 of Schedule 2 to, the National Health Service (Primary Care) Act 1997 (c.46), article 2 of S.I. 1998/2385, article 3(1) of, and paragraph 5 and 13 of Schedule 1 to, S.I. 2000/90, section 66(1) of, and paragraph 18 (5) of Schedule 9 to the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), section 2(1) of, and paragraph 40 of Schedule 1 to, the Health Authorities Act 1995 (c.17) and section 2(5) of, and paragraphs 1 and 32 of Part 1 of Schedule 2 to, the National Health Service Reform and Health Care Professions Act 2002 (c.17) (“the Reform Act”). Section 126(4) has been amended by section 65(2) of the 1990 Act, section 65(1) of, and paragraphs 4 and 37 of Schedule 4 to, the Health Act 1999 (c.8) (“the 1999 Act”), section 67(1) of, and paragraph 5 and 13 of Part 1 of Schedule 5 to, the Health and Social Care Act 2001 (c.15), and sections 6(3)(c) and 37(1) of the Reform Act 2002 (c.17). The functions of the Secretary of State under these provisions are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, as amended by section 66(5) of the 1999 Act.

(b) S.I. 2000/620, as amended by S.I. 2000/2393, S.I. 2000/3189, S.I. 2001/746, S.I. 2001/2887, S.I. 2002/548, S.I. 2002/1386, S.I. 2002/2352, S.I. 2003/585, S.I. 2003/699 and S.I. 2003/1084.

(c) S.I. 2003/2382.

- (c) “the Income Support Regulations” means the Income Support (General) Regulations 1987^(a).

Amendments of the Charges Regulations to increase charges

2.—(1) The Charges Regulations are amended as follows.

(2) In each of the following provisions, for “£6.30” in each place that it occurs there is substituted “£6.40”—

- (a) regulation 3(1)(a) and (b), (1A)(a) and (b) and (4) (charges for the supply of drugs and appliances by chemists);
- (b) regulation 4(1)(a) and (b) and (4) (charges for the supply of drugs and appliances by doctors);
- (c) regulation 5(1)(a) and (d) and (5) (charges for the supply of drugs and appliances by NHS trusts and Primary Care Trusts);
- (d) regulation 6(1)(a) and (b) and (4) (charges for the supply of drugs and appliances at Walk-in Centres); and
- (e) regulation 6A(1) (charges for the supply of drugs under Patient Group Directions).

(3) In each of the following provisions, for “£12.60” in each place that it occurs there is substituted “£12.80”—

- (a) regulation 3(1)(a) and (1A)(a) (charge for the supply of a pair of elastic hosiery by chemists);
- (b) regulation 4(1)(a) (charge for the supply of a pair of elastic hosiery by doctors);
- (c) regulation 5(1)(a) and (c) (charge for the supply of a pair of elastic hosiery or tights by NHS trusts or Primary Care Trusts); and
- (d) regulation 6(1)(a) (charge for the supply of a pair of elastic hosiery at Walk-in Centres).

(4) In regulation 9(5) (pre-payment certificates) there is substituted—

- (a) for “£32.90”, “£33.40”; and
- (b) for “£90.40”, “£91.80”.

(5) In column (2) of Schedule 1 (charges for fabric supports and wigs) there is substituted—

- (a) for “£21.20”, “£21.50”;
- (b) for “£32.00”, “£32.50”;
- (c) for “£52.30”, “£53.10”
- (d) for “£138.00”, “£140.15”; and
- (e) for “£201.70”, “£204.90”.

Amendments of the Charges Regulations concerning prisoners

3.—(1) In regulation 2(1) (interpretation) of the Charges Regulations, the following definitions are inserted at the appropriate alphabetical place—

““prison” includes a young offender institution but not a secure training centre or a naval, military or air force prison, and for the purposes of this definition—

“secure training centre” means a place in which offenders subject to detention and training orders under section 100 of the Powers of Criminal Courts (Sentencing) Act 2000^(b) (offenders under 18: detention and training orders) may be detained and given training and education and prepared for their release; and

^(a) S.I. 1987/1967.
^(b) 2000 c.6.

“young offender institution” means a place for the detention of offenders sentenced to detention in a young offender institution or to custody for life;” and

““prisoner” means a person who is detained in a prison in which medical, dental, ophthalmic, pharmaceutical or nursing services are provided under the Act by, or under arrangements made by, a Primary Care Trust otherwise than by virtue of section 18A(5) of the Act (provision of services etc.)(a).”.

(2) After regulation 7 the following regulation is inserted—

“Exemption from charges for prisoners

7A. A prisoner shall not be liable to pay any charge under these Regulations.”.

Transitional provisions relating to the Charges Regulations

4. Where, on or after 1st April 2004—

- (a) any appliance specified in Schedule 1 to the Charges Regulations is supplied pursuant to an order given before that date; or
- (b) any pre-payment certificate is granted under regulation 9 of the Charges Regulations pursuant to an application under that regulation which was received before that date,

the Charges Regulations shall have effect in relation to that supply, or as the case may be grant, as if these Regulations had not come into force.

Amendments of the Travel Expenses and Remission of Charges Regulations

5.—(1) The Travel Expenses and Remission of Charges Regulations are amended as follows.

(2) In regulation 2 (interpretation) after the definition of “relevant income” there is inserted the following definition—

““severe disability element” means the severe disability element of working tax credit as specified in section 11(6)(d) of the Tax Credits Act 2002 (maximum rate)(b).”.

(3) In regulation 5(1)(e) (entitlement to full remission and payment)—

- (a) in head (ii) after “disability element” there is inserted “or severe disability element”; and
- (b) for the figure “£14,200” there is substituted “£14,600”.

(4) In regulation 14 (payment and repayment of NHS foreign travel expenses) for paragraph (2) there is substituted—

“(2) Paragraphs (2) to (4) of regulation 7 (claims to entitlement) apply to a claim (whether for payment or repayment) made under this regulation as if the references to the Secretary of State in those paragraphs were references to the health service body which arranged the services referred to in regulation 3(2).”.

Modifications of the Income Support Regulations in Schedule 1 of the Travel Expenses and Remission of Charges Regulations

6.—(1) Schedule 1 to the Travel Expenses and Income Support Regulations (Modifications of the Income Support Regulations), is amended in accordance with paragraphs (2) to (4).

(2) In Table A, in the modifications of—

- (a) regulations 45 and 53 of the Income Support Regulations for “£19,500” in each place where it occurs, there is substituted “£20,000”; and

(a) Section 18A was inserted in the National Health Service Act 1977 by section 5 of the Health Act 1999 (c.8).

(b) 2002 c. 21.

- (b) regulation 53 of the Income Support Regulations, for “£12,000” there is substituted “£12,250”.
- (3) In Table B, in the modifications of Schedule 2 to the Income Support Regulations—
- (a) for the first entry beginning “In column (1) of the Table” and ending “(4) Couple.” there is substituted—
- “In column (1) of the Table for sub-paragraphs (1) to (4) substitute—
- (1) Single person aged not less than 25;
 - (2) Single person aged not less than 60;
 - (3) Lone Parent;
 - (4) Single person aged less than 25;
 - (5) Couple;
 - (6) Couple, where at least one partner is aged not less than 60.”;
- (b) for the second entry beginning “In column (2) of the Table” and ending “paragraph 3(d) of column (2) in the unmodified regulations.” there is substituted—
- “In column (2) of the Table (amounts) substitute—
- (a) against sub-paragraph (1) of column (1), the amount prescribed in paragraph (1)(e) of column (2) in the unmodified regulations;
 - (b) against sub-paragraph (2) of column (1), the amount prescribed in regulation 6(1)(b) of the State Pension Credit Regulations;
 - (c) against sub-paragraph (3) of column (1), the amount prescribed in paragraph (1)(e) of column (2) in the unmodified regulations;
 - (d) against sub-paragraph (4) of column (1), the amount prescribed in paragraph (1)(d) of column (2) in the unmodified regulations;
 - (e) against sub-paragraph (5) of column (1), the amount prescribed in paragraph (3)(d) of column (2) in the unmodified regulations.
 - (f) against sub-paragraph (6) of column (1), the amount prescribed in regulation 6(1)(a) of the State Pension Credit Regulations.”;
- (c) for the third entry beginning “Omit paragraphs” and ending “15(2A).” there is substituted—
- “Omit paragraphs 1A, 2A, 6(2), 9, 9A, 10, 12(1)(c), 12(4), 15(2), 15(2A) and 15(3).”;
- (d) the sixth entry beginning “For Paragraph 10” and ending “less than 60.” is omitted;
- (e) after the tenth entry beginning “In paragraph 12(1)(b)” and ending “28 weeks.” there is inserted the following entry—
- “In paragraph 12(1)(d)(ii) delete “higher pensioner premium or”.
- (4) In Table B in the modification of Schedule 7 to the Income Support Regulations, in the fifth entry in head (b) in the second column of paragraph 10ZA—
- (a) omit the words “lone parent premium and”; and
 - (b) for the reference to “paragraph 8” substitute “paragraph 3”.

Signed by authority of the Secretary of State for Health

Rosie Winterton
 Minister of State,
 Department of Health

10th March 2004

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations amend the National Health Service (Charges for Drugs and Appliances) Regulations 2000 (“ the Charges Regulations”) and the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (“the Travel Expenses and Remission of Charges Regulations”).

Regulations 2 and 4 increase prescription and other charges payable under the Charges Regulations and make transitional provision. Regulation 3 provides that prisoners in certain prisons will not be liable to pay any charges under the Charges Regulations. Prisoners will only obtain free drugs and appliances while actually in prison and therefore will not be required to prove entitlement to exemption from paying the charges. This change is a result of the transfer of responsibility for prison health care provision from the Home Office to Primary Care Trusts.

Regulation 5 amends the Travel Expenses and Remission of Charges Regulations to increase the threshold for entitlement under those regulations for people receiving tax credits. Regulation 6 amends the Travel Expenses and Remission of Charges Regulations to increase the capital limit for entitlement under those regulations for people living in care and to maintain the calculation of entitlement under those regulations in respect of people aged 60 and over.

STATUTORY INSTRUMENTS

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