

2007 No. 1510

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service (Charges for Drugs and Appliances) Amendment (No.2) Regulations 2007

<i>Made</i> - - - -	<i>22nd May 2007</i>
<i>Laid before Parliament</i>	<i>30th May 2007</i>
<i>Coming into force</i> - -	<i>1st July 2007</i>

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred on her by sections 172, 174 and 272(7) and (8) of the National Health Service Act 2006(a).

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Charges for Drugs and Appliances) Amendment (No.2) Regulations 2007 and shall come into force on 1st July 2007.

(2) These Regulations apply in relation to England.

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

Amendment of regulation 9 of the Charges Regulations

2. For regulation 9 of the Charges Regulations (pre-payment certificates), substitute the following—

“9.—(1) Subject to paragraph (5), where a person applies to the Secretary of State for a pre-payment certificate and—

- (a) pays, or undertakes to pay by means of direct debit in ten monthly instalments, to the Secretary of State the sum payable for the pre-payment certificate as prescribed in paragraph (4); and
- (b) provides the Secretary of State with the information the Secretary of State requires to determine that application by—
 - (i) duly completing and submitting an application for the pre-payment certificate on a form provided for the purpose; or
 - (ii) providing the Secretary of State with that information in a manner that is acceptable to the Secretary of State,

(a) 2006 c.41

(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, S.I. 2003/1084, S.I. 2004/663, S.I. 2005/578, S.I. 2006/675 and S.I. 2007/543.

the Secretary of State shall grant a pre-payment certificate to that person as soon as reasonably practicable after that person has fulfilled the condition set out in paragraph (6).

(2) A pre-payment certificate shall be valid for a period of either 3 months or 12 months and an application for such a certificate shall indicate the period for which it is required to be valid.

(3) A pre-payment certificate which is granted confers on the person to whom it is granted exemption as provided by regulation 7(1)(g) in respect of drugs and appliances supplied during the period for which it is valid.

(4) The sum payable for a pre-payment certificate valid for 3 months shall be £26.85 and for a pre-payment certificate valid for 12 months shall be £98.70.

(5) The Secretary of State may refuse to accept payment for a pre-payment certificate valid for 12 months by means of direct debit in ten monthly instalments, and refuse to grant such a certificate to a person, where that person—

- (a) has previously been granted a pre-payment certificate valid for 12 months payable by direct debit in ten monthly instalments;
- (b) has failed to pay in full the sum payable for that previously granted pre-payment certificate without good reason; and
- (c) has failed to return without good reason that previously granted pre-payment certificate to the Secretary of State within 28 days of the date on which the Secretary of State requested its return.

(6) The condition referred to in paragraph (1) is that the person making an application for the pre-payment certificate in accordance with paragraph (1) has paid the Secretary of State—

- (a) in the case of a 3 month pre-payment certificate, £26.85;
- (b) in the case of a 12 month pre-payment certificate payable by means of a single instalment, £98.70; or
- (c) in the case of a 12 month pre-payment certificate payable by means of direct debit in ten monthly instalments, the first such instalment amounting to £9.87,

and the payment amount referred to for each type of pre-payment certificate in sub-paragraphs (a) to (c) is referred to in this regulation as “the issuing amount”.

(7) A pre-payment certificate shall be valid—

- (a) from a date before the application is made, where that date—
 - (i) was specified by the applicant when making the application; and
 - (ii) is no more than one month prior to the date upon which the application was made under paragraph (1); or
- (b) from a date after the application is made, where that date—
 - (i) was specified by the applicant when making the application; and
 - (ii) is no more than one month after the date upon which the application was made under paragraph (1); or
- (c) if the applicant does not specify a date under sub-paragraphs (a)(i) or (b)(i), from the date upon which the application is received.

(8) Where payment of the issuing amount in respect of a pre-payment certificate valid for 3 months or 12 months has been made under this regulation and, not more than one month after the date on which the pre-payment certificate became valid, the person in respect of whom payment was made—

- (a) dies; or
- (b) becomes resident in hospital and thereafter dies while resident in hospital before the expiry of the pre-payment certificate,

an application for repayment of the entirety of the sum payable for the pre-payment certificate which has already been paid may be made on behalf of that person's estate in accordance with paragraphs (13) and (14).

(9) Where payment of the issuing amount in respect of a pre-payment certificate valid for 12 months has been made under this regulation and during the period beginning with the date on which the pre-payment certificate became valid and ending with the date of its expiry, the person in respect of whom payment was made—

- (a) becomes a person to whom any of the provisions of regulation 7(1)(b) to (f) applies;
- (b) becomes a person entitled to remission under regulation 5 of the Travel Expenses and Remission of Charges Regulations; or
- (c) becomes resident in hospital and thereafter remains in hospital until the expiry of the pre-payment certificate,

an application for a refund may be made, by or on behalf of that person or his estate, in accordance with paragraphs (13) and (14), and calculated in accordance with paragraph (11), in respect of each complete month following the date on which one of the events listed in sub-paragraphs (a) to (c) above occurred.

(10) Where payment of the issuing amount in respect of a pre-payment certificate valid for 3 months or 12 months has been made under this regulation and during the period beginning one month after the date on which the pre-payment certificate became valid and ending with the date of its expiry, the person in respect of whom payment was made—

- (a) dies; or
- (b) becomes resident in hospital and thereafter dies while resident in hospital before the expiry of the pre-payment certificate,

an application for a refund may be made on behalf of that person's estate in accordance with paragraphs (13) and (14), and calculated in accordance with paragraph (11), in respect of each complete month following the date on which the person died or became resident in hospital.

(11) The refund referred to in paragraphs (9) and (10) shall be calculated as follows—

- (a) in the case of a pre-payment certificate valid for 3 months, one third of £26.85 for each complete month during which the pre-payment certificate is or was valid following the relevant date;
- (b) in the case of a pre-payment certificate valid for 12 months where a person has paid for the pre-payment certificate by means of a single payment, one twelfth of £98.70 for each complete month during which the pre-payment certificate is or was valid following the relevant date;
- (c) in the case of a pre-payment certificate valid for 12 months where a person is paying for the pre-payment certificate in ten monthly instalments by means of direct debit either—
 - (i) where the sum payable for the pre-payment certificate has been paid in full, one twelfth of £98.70 for each complete month during which the pre-payment certificate is or was valid following the relevant date; or
 - (ii) where the sum payable for the pre-payment certificate has not been paid in full, the amount paid for the pre-payment certificate at the point of refund, minus £98.70, plus one twelfth of £98.70 for each complete month during which the pre-payment certificate is or was valid following the relevant date,

and for the purposes of these calculations, a "complete month" is a month beginning on the monthly anniversary of the date on which the pre-payment certificate became valid and ending on the date immediately preceding that date in the following month, "the relevant date" is the date on which one of the events listed in paragraphs (9)(a) to (c) or (10) (a) and (b) occurred, and if the calculations produce a minus figure for the refund, no refund will be payable.

(12) Where payment of the issuing amount in respect of a pre-payment certificate valid for 3 months has been made under this regulation and not more than one month after the date on which the pre-payment certificate became valid, the person in respect of whom payment was made—

- (a) becomes a person to whom any of the provisions of regulation 7(1)(b) to (f) applies;
- (b) becomes a person entitled to remission under regulation 5 of the Travel Expenses and Remission of Charges Regulations; or
- (c) becomes resident in hospital and remains there until expiry of the pre-payment certificate,

an application for a refund of two thirds of £26.85 may be made by or on behalf of that person or his estate in accordance with paragraphs (13) and (14).

(13) An application for a refund under this regulation shall be made to the Secretary of State and shall be accompanied by the pre-payment certificate (where granted) and a declaration in support of the claim and any repayment shall be made in such manner and subject to such conditions as the Secretary of State may determine.

(14) An application for a refund under this regulation shall be made where the person in respect of whom the payment of the issuing amount was made—

- (a) dies or becomes resident in hospital and thereafter dies, within 24 months of the date of his death; or
- (b) becomes—
 - (i) a person to whom any of the provisions of regulation 7(1)(b) to (f) applies; or
 - (ii) a person entitled to remission under regulation 5 of the Travel Expenses and Remission of Charges Regulations,within 3 months of the date on which he becomes a person falling within subparagraphs (i) or (ii); or
- (c) becomes resident in hospital and remains there until the expiry of the pre-payment certificate, within 3 months of the date of expiry.”.

Transitional provisions relating to regulation 9 of the Charges Regulations

3.—(1) Where an application for a pre-payment certificate made under regulation 9 of the Charges Regulations as they are immediately before these Regulations come into force is received prior to 1st July 2007, but is not determined prior to 1st July 2007, the Charges Regulations shall have effect in relation to that application and to the grant of any pre-payment certificate pursuant to that application as if these Regulations had not come into force.

(2) Where, on or after 1st July 2007 but prior to 1st November 2007, a postal application for a pre-payment certificate valid for 4 months is received with payment of the sum of £34.65, that application shall be determined and, if appropriate, a pre-payment certificate valid for 4 months shall be granted in accordance with the Charges Regulations as if these Regulations had not come into force and the Charges Regulations shall have effect in relation to that pre-payment certificate, including any application for a refund of the sum paid for that pre-payment certificate, as if these Regulations had not come into force.

(3) Where an application for a refund of the sum paid for a pre-payment certificate under the Charges Regulations is received prior to 1st July 2007, but is not determined prior to 1st July 2007, the Charges Regulations shall have effect in relation to that application as if these Regulations had not come into force.

(4) Where, on or after 1st July 2007, an application for a refund of the sum paid for a pre-payment certificate under the Charges Regulations is received in respect of a pre-payment certificate valid for 12 months which was granted pursuant to an application received prior to 1st July 2007 and the application is made on the grounds that not more than one month after the date

on which the pre-payment certificate became valid, the person in respect of whom the pre-payment certificate was granted—

- (a) became a person to whom any of the provisions of regulation 7(1)(b) to (f) of the Charges Regulations applied;
- (b) became a person entitled to remission under regulation 5 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(a);
- (c) died; or
- (d) became resident in hospital and thereafter—
 - (i) died while resident in hospital before expiry of the pre-payment certificate; or
 - (ii) remained in hospital until the expiry of the pre-payment certificate,

the Charges Regulations shall have effect in relation to that application as if these Regulations had not come into force.

(5) Where, on or after 1st July 2007, an application for a refund of the sum paid for a pre-payment certificate under the Charges Regulations is received in respect of a pre-payment certificate valid for 4 months which was granted pursuant to an application received prior to 1st July 2007, the Charges Regulations shall have effect in relation to that application as if these Regulations had not come into force.

Signed by authority of the Secretary of State for Health

22nd May 2007

Hunt
Minister of State
Department of Health

(a) S.I. 2003/2382, as amended by S.I. 2004/663, S.I. 2004/936, S.I. 2005/26, S.I. 2005/578, S.I. 2006/675, S.I. 2006/1065, S.I. 2006/2171 and S.I. 2007/988.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Charges for Drugs and Appliances) Regulations 2000 (“the Charges Regulations”).

Regulation 2 inserts a replacement regulation 9 into the Charges Regulations to make changes to the system of pre-payment certificates (“PPCs”). Paragraphs (1) to (7) make provision about applications for, and the grant of, PPCs, the effect of PPCs, and include provisions to enable PPCs valid for 12 months to be paid for by direct debit in monthly instalments. Paragraphs (8) to (14) make provision about entitlement to refunds of sums paid for PPCs, applications for such refunds and the payment of such refunds.

Regulation 3 makes transitional provision in relation to applications for PPCs and PPC refunds which in some way straddle the PPC system prior to 1st July 2007 and the PPC system introduced by these Regulations as from 1st July 2007.

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