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WELSH STATUTORY INSTRUMENTS

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**2001 No. 1423 (W.98)**

**NATIONAL HEALTH SERVICE, WALES**

**National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (No.2) (Wales) Regulations 2001**

*Made* - - - - *5th April 2001*  
*Coming into force* - - *1st May 2001*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 38, 39, 78, 126(4) and 127 of, and paragraphs 2 and 2A of Schedule 12 to the National Health Service Act 1977(1)) hereby makes the following Regulations:

**Citation, commencement, interpretation and application**

1.—(1) These Regulations may be cited as the National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (No.2) (Wales) Regulations 2001, and shall come into force on 1st May 2001.

(2) In these Regulations unless the context otherwise requires—

“the 1997 Regulations” (“*Rheoliadau 1997*”) means the National Health Service (Optical Charges and Payments) Regulations 1997(2);

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(1) 1977 c. 49; see section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i) for the definitions of “prescribed” and “regulations”.

Section 38 was amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), section 1 and Schedule 1, paragraph 51; by the Health and Social Security Act 1984 (c. 48) (“the 1984 Act”), section 1(3); by S.I.1985/39, article 7(11); by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), section 13(1); and by the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), Schedule 1, paragraph 27.

Section 39 was extended by the 1988 Act, section 17; and amended by the 1980 Act, section 1 and Schedule 1, Part I, paragraph 52, by the 1984 Act, section 1(4) and Schedule 1, paragraph 1 and Schedule 8; by S.I.1985/39, article 7(12); and by the 1995 Act, Schedule 1, paragraph 28.

Section 126(4) was amended by the 1990 Act, section 65(2) and by the Health Act 1999 (c. 8) (“the 1999 Act”), Schedule 4, paragraph 37(6).

Paragraph 2(1) of Schedule 12 was substituted by the 1988 Act, Schedule 2, paragraph 8(1);

Paragraph 2A of Schedule 12 was inserted by the 1984 Act, Schedule 1, Part 1, paragraph 3 and amended by the 1988 Act, section 13(2) and (3).

The functions of the Secretary of State under sections 38, 39, 78, 126(4) and 127 of, and paragraphs 2 and 2A of Schedule 12, to the National Health Service Act 1977 are transferred to the National Assembly for Wales by The National Assembly for Wales (Transfer of Functions) Order 1999, S.I.1999/672, article 2 and Schedule 1, as amended by section 66(5) of the 1999 Act.

(2) S.I.1997/818; the relevant amending instruments are S.I.1997/2488, 1998/499, 1999/609, 2000/978 and 2000/3119.

“the 1986 Regulations” (“*Rheoliadau 1986*”) means the National Health Service (General Ophthalmic Services) Regulations 1986(3).

(3) These Regulations shall apply to Wales only.

### **Amendment of the 1997 Regulations**

2. In regulation 1(2) of the 1997 Regulations (interpretation), in the definition of “NHS sight test fee”, for the amount “£42.79” substitute “£42.85” and for the amount “£15.46” substitute “£15.52”.

3.—(1) Regulation 12 of the 1997 Regulations (use of vouchers for supply of optical appliances) shall be amended in accordance with the following provisions.

(2) In paragraph (1) for “paragraphs (4) and (5)”, substitute “paragraphs (4), (5) and (6)”.

(3) After paragraph (5) add—

“(6) When the patient presents the voucher—

- (a) the supplier shall ask him to produce satisfactory evidence that he is an eligible person, unless the supplier, in cases other than where the patient is an eligible person by virtue of regulation 8(2)(c) or (d), already has satisfactory evidence of entitlement available to him; and
- (b) if the patient is requested to produce satisfactory evidence of entitlement, but does not do so, the supplier shall record the fact on the voucher.”.

4. At the end of regulation 13 of the 1997 Regulations (payments to suppliers), add—

“(3) The responsible authority shall also make a payment, the amount of which shall be determined by the National Assembly for Wales, to the supplier to meet or contribute to the cost incurred by the supplier in complying with regulation 12(6).”.

5. In regulation 16 of the 1997 Regulations (completion of vouchers), for paragraphs (2) and (3) substitute—

“(2) In the case of a replacement, the supplier shall—

- (a) ask the patient to produce satisfactory evidence of entitlement, unless the supplier, in cases, other than where the patient is an eligible person by virtue of regulation 8(2)(c) or (d), already has satisfactory evidence of entitlement available to him;
- (b) mark on the voucher the letter code specified in column 2 of Schedule 1, which relates to the type of optical appliance to be replaced, as set out in column 1 of that Schedule;
- (c) duly complete the relevant parts of the voucher with—
  - (i) the name and address of the patient,
  - (ii) the patient’s date of birth;
- (d) if the patient has been asked for, but not shown, satisfactory evidence of entitlement, record the fact on the voucher.

(3) In the case of repair, the supplier shall—

- (a) ask the patient to produce satisfactory evidence of entitlement, unless the supplier, in cases other than where the patient is an eligible person by virtue of regulation 8(2)(c) or (d), already has satisfactory evidence of entitlement available to him;

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(3) S.I.1986/975; the relevant amending instruments are S.I. 1988/486, 1989/395, 1989/1175, 1990/1051, 1991/583, 1992/404, 1995/558, 1996/705, 1996/2320, 1999/693 and 1999/2481.

- (b) mark on the voucher the letter code specified in column 2 of Schedule 1 which relates to the type of optical appliance to be replaced as set out in column 1 of that Schedule;
- (c) indicate on the voucher the nature of the repair to the appliance to be undertaken and, in particular, whether it comprises—
  - (i) the replacement or repair of one or more lenses included in the appliance and, if so, how many,
  - (ii) the repair of a frame and, if so, whether it is the whole frame, the front of a frame or one or both sides of a frame;
- (d) duly complete the relevant parts of the voucher with—
  - (i) the name and address of the patient,
  - (ii) the patient's date of birth; and
- (e) if the patient has been asked for, but not shown, satisfactory evidence of entitlement, record the fact on the voucher.”.

**6.** At the end of regulation 18 of the 1997 Regulations (payments to suppliers for replacement and repair), add—

“(3) The responsible authority shall also make a payment, the amount of which shall be determined by the National Assembly for Wales, to the supplier to meet or contribute to the cost incurred by the supplier in order to comply with regulation 16(2) or (3).”.

#### **Amendment of the 1986 Regulations**

**7.** In regulation 2 of the 1986 Regulations (interpretation), the following shall be inserted in the appropriate alphabetical order—

““day centre” means an establishment attended by patients who would have difficulty in obtaining general ophthalmic services from practice premises because of physical or mental illness or disability or because of difficulties in communicating their health needs unaided;

“mobile practice” means a contractor who does not have practice premises in a locality, but who has undertaken to provide general ophthalmic services at day or residential centres in that locality;

“residential centre” means an establishment for patients who normally reside in that establishment and who are unable to leave the establishment unaccompanied because of physical or mental illness or disability.”.

**8.—(1)** Regulation 6 of the 1986 Regulations (ophthalmic list) shall be amended in accordance with the following provisions.

(2) In paragraph (3)(b) after “provide general ophthalmic services” add “, or in the case of a mobile practice, the address to which correspondence in connection with such provision may be sent, and the addresses of any day or residential centres they intend to visit more than once;”.

(3) In paragraph (3)(c) after “at those addresses” add “, or in the case of day or residential centres, the months in which such visits are intended to take place and the planned interval between such visits;”.

**9.—(1)** Regulation 13A (sight tests - applications), shall be amended in accordance with the following provisions.

(2) For paragraph (4)(a) substitute—

- (a) “(4) subject to paragraph (5)—

- (i) satisfy himself that the person is an eligible person by asking for satisfactory evidence of entitlement, unless the contractor, in cases other than where the patient is a person specified in regulation 13(1)(c), already has satisfactory evidence of it available to him; and
  - (ii) where the patient has been asked for, but not produced, satisfactory evidence that he is an eligible person, then the contractor shall record the fact on the patient's sight test form;".
- (3) After paragraph (5) add the following paragraphs—
- “(6) Where the contractor has provided the sight test at the place where the patient normally resides, he shall record on the sight test form the reason given by the patient, or on the patient's behalf, for not being able to leave home unaccompanied.
- (7) The contractor may appoint a member of his staff to carry out the requirements of paragraph (4)(a)(i) and (ii) on his behalf, and he shall ensure the member of staff so appointed is given instruction to enable that person to fulfil the requirements on his behalf.”.

10. For regulation 16 (service of documents on contractors) substitute—

**“Service of documents on contractors**

16. Subject to regulation 9(6), any document which is required or authorised under these regulations (including the terms of service) to be given to a contractor may be given by delivering it to him or by sending it addressed to him at any address notified by him to the Health Authority for inclusion in the ophthalmic list as a place at which he has undertaken to provide general ophthalmic services, or in the case of a mobile practice, the address notified to the Health Authority as the address to which correspondence may be sent.”.

- 11.—(1) Schedule 1 (terms of service) shall be amended in accordance with the following provisions.

- (2) In paragraph 2 (incorporation of provisions)—

- (a) for sub-paragraph (b)(iii) substitute—

“(iii) the investigation of excessive issuing of optical vouchers following a sight test;”;

- (b) for sub-paragraph (c) substitute—

“(c) regulation 9 of the National Health Service (Optical Charges and Payments) Regulations 1997(4)”.

- (3) In paragraph 3 (premises at which general ophthalmic services are to be provided), for sub-paragraph (2) substitute—

“(2) Where requested to do so by or on behalf of a patient, who is—

- (a) unable to leave home unaccompanied because of physical or mental illness or disability, a contractor may agree to provide general ophthalmic services at the place at which the patient normally resides; or
- (b) attending a day centre, a contractor may agree to provide general ophthalmic services at that day centre.”.

- (4) after paragraph 3 insert the following paragraph—

### **“Visits by mobile practices**

**3A.**—(1) The contractor shall give a Health Authority notice in accordance with sub-paragraph (2) of any visits, which he intends to make to provide general ophthalmic services to at least three persons at a day centre or residential centre in its locality.

(2) The contractor shall notify the Health Authority at least a month in advance of the beginning of the month in which he intends to visit any day centre or residential centre in its locality and the intervals at which he intends to make return visits.”.

(5) In paragraph 4 (premises and equipment)—

(a) in sub-paragraph (1) after “Subject to” insert “sub-paragraph (1A) and”;

(b) after sub-paragraph (1) insert —

“(1A) In the case of a mobile practice, the contractor shall provide suitable equipment for the provision of the general ophthalmic services that he has undertaken to provide.”;

(c) in sub-paragraph (2) after “Subject to” insert “sub-paragraph (2A) and”;

(d) after paragraph (2) insert—

“(2A) In the case of a mobile practice, the contractor, on receipt of a written request from a Health Authority or the National Assembly for Wales, shall arrange for an authorised officer of the Health Authority or of the National Assembly for Wales to be allowed to inspect at a reasonable time the facilities and equipment that he uses.”.

(6) In paragraph 5 (notices), for “the National Health Service (Optical Charges and Payments) Regulations 1989” substitute “the National Health Service (Optical Charges and Payments) Regulations 1997”.

(7) For paragraph (6) (records) substitute—

### **“Records**

**6.**—(1) A contractor shall keep a proper record in respect of each patient to whom he provides general ophthalmic services, giving appropriate details of sight testing.

(2) Subject to paragraph 8(5), a contractor shall retain all such records for a period of seven years, and shall during that period produce them when required to do so by a Health Authority or the National Assembly for Wales—

(a) to an officer authorised by a Health Authority or by the National Assembly for Wales; and

(b) within such period, not being less than 14 days, as the Health Authority or the National Assembly for Wales may specify.”.

(8) In paragraph 10 (testing of sight), in sub-paragraph (2) for “he shall so inform the patient’s doctor” substitute “he shall, if appropriate, and with the consent of the patient, inform the patient’s doctor of his opinion.”.

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

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Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(5)

5th April 2001

*D. Elis Thomas*  
The Presiding Officer of the National Assembly

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the National Health Service (Optical Charges and Payments) Regulations 1997 (“the 1997 Regulations”) and the National Health Service (General Ophthalmic Services) Regulations 1986 (“the 1986 Regulations”). The 1997 Regulations provide for a scheme of payments to be made by Health Authorities and NHS Trusts by means of a voucher system in respect of costs incurred by certain categories of persons in connection with sight tests and the supply, replacement and repair of optical appliances. The 1986 Regulations contain provision for the arrangements for general ophthalmic services under the National Health Service.

Regulation 2 amends the definition of “NHS sight test fee” in regulation 1(2) of the 1997 Regulations to reflect the values of the two levels of fee for National Health Service sight tests payable to ophthalmic medical practitioners and opticians at the time these regulations come into force. These amounts are relevant to the determination of eligibility for, and the redemption value of, a voucher towards the cost of a sight test.

Regulations 3 and 5 make amendments to the 1997 Regulations to require the supplier to ask the patient for satisfactory evidence that the patient is an eligible person when he or she presents a voucher to obtain an optical appliance under the regulations, unless, in cases other than where the patient is eligible by virtue of his or her lack of financial resources, the supplier already has satisfactory evidence. If the patient does not do so, the supplier must record the fact on the voucher.

Regulations 4 and 6 amend the 1997 Regulations to provide that payments, at a rate to be determined by the National Assembly for Wales, may be made to suppliers for carrying out the checks provided for in Regulations 3 and 5.

A number of amendments are made to the 1986 Regulations. Regulation 7 amends regulation 2 of the 1986 Regulations to insert additional definitions.

Regulation 8 imposes additional requirements in respect of mobile practices responsible for the provision of general ophthalmic services.

Regulation 9 amends regulation 13A to provide that a contractor must ask the patient for satisfactory evidence of entitlement that he or she is an eligible person when the patient applies for a sight test under the Regulations, unless, in cases other than where the patient is eligible by virtue of his or her lack of financial resources, the contractor already has satisfactory evidence. If the patient cannot produce such evidence, the contractor shall record the fact on the sight test form. In addition, where the contractor has carried out the sight test at a patient’s home, he or she must record on the sight test form the reason for the patient not being able to leave home unaccompanied.

The Regulations also make some amendments to the terms of service set out in Schedule 1 to the 1986 Regulations.

Paragraph 3 of the Schedule is amended to allow contractors to agree, in specified circumstances, to provide general ophthalmic services at day centres or at a place where the patient normally resides. Provision is made in a new paragraph 3A to require mobile practices to notify a Health Authority in advance when they intend to make visits to day or residential centres in that Health Authority’s area.

Paragraph 4 is amended to require mobile practices to provide suitable equipment for the provision of general ophthalmic services and for this to be inspected, together with their facilities, by a person authorised by the National Assembly for Wales or the Health Authority.

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Paragraph 6 is amended to provide that records shall be kept, retained and are subject to production for inspection by a person authorised by the National Assembly for Wales or the Health Authority.

Paragraph 10 is amended so that information shall only be given to a patient's doctor following a sight test if it appropriate to do so and with the consent of the patient.