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SCOTTISH STATUTORY INSTRUMENTS

2003 No. 218

NATIONAL HEALTH SERVICE

The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2003

Made - - - - 25th March 2003
Laid before the Scottish
Parliament - - - - 26th March 2003
Coming into force in accordance with regulation 1(2)
and (3)

The Scottish Ministers, in exercise of the powers conferred by sections 26, 70(1), 73(a), 74(a), 105(7) and 108(1) of, and paragraphs 2 and 2A of Schedule 11 to, the National Health Service (Scotland) Act 1978(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2003.

(2) Subject to paragraph (3), these Regulations shall come into force on 1st April 2003.

(3) Regulation 2 shall come into force on 31st March 2003 and regulations 3(2), (3) and (4) and 5 shall come into force on 6th April 2003.

(4) In these Regulations—

(a) “the 1998 Regulations” means the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998(2); and

(b) “eligible person” has the same meaning as in regulation 1(2) of the 1998 Regulations.

(1) 1978 (c. 29); section 26 was amended by the Health and Social Security Act 1984 (c. 48) (“the 1984 Act”), section 1(5), Schedule 1, Part II, paragraphs 1 to 4 and Schedule 8 and by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), section 13(4); section 70(1) was amended by the 1988 Act, Schedule 3; section 105(7) was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7 and by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made; paragraph 2(1) of Schedule 11 was substituted by the 1988 Act, Schedule 2, paragraph 15(1); and paragraph 2A of Schedule 11 was inserted by the 1984 Act, Schedule 1, Part II, paragraph 7 and amended by the 1988 Act, section 13(2) and (5). The functions of the Secretary of State were transferred to Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) S.I.1998/642 amended by S.I. 1999/748, S.S.I. 1999/64, 2000/45 and 395, 2001/88, 2002/17, 86 and 224 and 2003/200.

Revocation

2. The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2003(3) are hereby revoked.

Amendment of the 1998 Regulations

3.—(1) The 1998 Regulations are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation)(4), paragraph (2)–

(a) after the definition of “child”, insert–

““child tax credit” means child tax credit under the Tax Credits Act 2002(5);”;

(b) after the definition of “complex appliance”, insert–

““disability element” means the disability element of working tax credit as specified in section 11(3) of the Tax Credits Act 2002;”;

(c) after the definition of “the 1989 Regulations”, insert–

““relevant income” has the same meaning as in section 7(3) of Part 1 of the Tax Credits Act 2002;”;

(d) after the definition of “supply”, insert–

““tax credit” has the same meaning as in section 1(2) of the Tax Credits Act 2002;”;

(e) after the definition of “voucher”, insert–

““working tax credit” means working tax credit under the Tax Credits Act 2002;”;
and

(f) omit the definitions of “amount withdrawn”, “disabled person’s tax credit” and “working families’ tax credit”.

(3) In regulation 8 (eligibility – supply of optical appliances)(6)–

(a) in paragraph (3)–

(i) after sub-paragraph (j), insert–

“(k) he is a member of a family–

(i) one member of which is receiving–

(aa) working tax credit and child tax credit; or

(bb) working tax credit which includes a disability element; or

(cc) child tax credit, but is not eligible for working tax credit;”;

and

(ii) where the relevant income of the person or persons to whom an award of a tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £14,200;
or

(l) he is a member of a family in respect of whom there is a current notice of entitlement under regulation 12A”;

(ii) omit sub paragraphs (c), (d), (g) and (h); and

(b) for paragraph (4), substitute–

(3) S.S.I. 2003/200.

(4) Regulation 1 was amended by S.I. 1998/642 and S.S.I. 1999/64, 2000/45 and 395, 2001/88 and 2002/17.

(5) 2002 c. 36.

(6) Regulation 8 was amended by S.I. 1999/748 and S.S.I. 1999/64, 2001/88 and 2002/86.

“(4) In paragraph (3)–

- (a) in sub paragraphs (b) and (f), “family” has the meaning given to it by section 137(1) of the Social Security Contributions and Benefits Act 1992, as it applies to income support;
- (b) in sub paragraph (j), “family” has the meaning given to it by section 35 of the Jobseekers Act 1995(7); and
- (c) in sub paragraphs (k) and (l), “family” has the meaning given to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002(8).”.

(4) After regulation 12 (use of vouchers for the supply of optical appliances), insert–

“Notice of entitlement

12A.—(1) Where a person is entitled to the payment of, or a contribution towards, the cost incurred for the supply of an optical appliance because he is a member of a family described in regulation 8(3)(k), the Scottish Ministers shall issue a notice of entitlement under this regulation to that family.

(2) Such a notice of entitlement shall apply to–

- (a) any family member who is named in the notice of entitlement; and
- (b) any other member of such a person’s family.

(3) A notice of entitlement issued under paragraph (1) shall be effective–

- (a) from such date; and
- (b) for such period,

as the Scottish Ministers may determine.

(4) Any change in the financial or other circumstances of a person who is a member of a family in respect of which a notice of entitlement has been issued under paragraph (1), during the period for which the notice of entitlement has been issued, shall not affect the validity of the notice of entitlement in respect of that period.

(5) A notice of entitlement means a notice issued under this regulation and not under regulation 7 of the Remission Regulations(9).”.

(5) In regulation 19 (redemption value of voucher for replacement or repair)(10)–

- (a) in paragraph (1)(b) for “£44.60” substitute “£45.70”;
- (b) in paragraph (3)(a) for “£11.50” substitute “£11.80”; and
- (c) in paragraph (3)(b) for “£50.20” substitute “£51.50”.

(6) In Schedule 1 (voucher letter codes and face values – supply and replacement)(11) in column 3 (face values of voucher) for each amount specified in column 1 of the table below (old amount) substitute the amount specified in relation to it in column 2 of that Table (new amount).

(7) 1995 c. 18.

(8) S.I. 2002/2006.

(9) 1988/546. Regulation 7 was amended by S.I. 1993/642, 1995/700, 1996/429 and 2391 and 1997/1012.

(10) Regulation 19 was amended by S.I. 1999/748, S.S.I. 2000/45, 2001/88 and 2002/86.

(11) Schedule 1 was substituted by S.I. 1999/748, and subsequently amended by S.S.I. 1999/64, 2000/45, 2001/88 and 2002/86.

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TABLE

<i>Column 1 Old amount</i>	<i>Column 2 New amount</i>
£30.50	£31.30
£46.40	£47.60
£63.20	£64.80
£142.70	£146.30
£52.70	£54.00
£67.00	£68.70
£81.00	£83.00
£157.00 (in both places where it appears)	£160.90
£44.60	£45.70

(7) For Schedule 2 (voucher values – repair)(12), substitute the Schedule 2 set out in the Schedule to these Regulations.

(8) In Schedule 3 (prisms, tints, photochromic lenses, small glasses and special frames and complex appliances)(13)–

- (a) in paragraph 1(1)(a) (single vision lens with prism) for “£9.90” substitute “£10.10”;
- (b) in paragraph 1(1)(b) (other lens with prism) for “£11.90” substitute “£12.20”;
- (c) in paragraph 1(1)(c) (single vision tinted lens) for “£3.30” substitute “£3.40”;
- (d) in paragraph 1(1)(d) (other tinted lens) for “£3.80” substitute “£3.90”;
- (e) in paragraph 1(1)(e) (small glasses)–
 - (i) in sub head (i) for “£50.20” substitute “£51.50”;
 - (ii) in sub head (ii) for “£44.60” substitute “£45.70”; and
 - (iii) in sub head (iii) for “£24.20” substitute “£24.80”;
- (f) in paragraph 1(1)(g) (specially manufactured frame) for “£50.20”, “£44.60” and “£24.20” substitute “£51.50”, “£45.70” and “£24.80” respectively;
- (g) in paragraph 2(a) (minimum complex appliance payment – single vision lenses) for “£10.70” substitute “£11.00”; and
- (h) in paragraph 2(b) (minimum complex appliance payment – other lenses) for “£27.00” substitute “£27.70”.

Application of regulation 3 of these Regulations

4. The amendments made by regulation 3(5) to (8) of, and the Schedule to, these Regulations, apply only in relation to a voucher accepted or used pursuant to regulation 12 or regulation 17 of the 1998 Regulations on or after 1st April 2003.

(12) Schedule 2 was substituted by S.I. 2001/45 and subsequently by S.S.I. 2002/86.

(13) Schedule 3 was amended by S.I. 1999/748, S.S.I. 1999/64, 2000/45, 2001/88 and 2002/86.

Saving provision

5. Notwithstanding the revocation of regulation 8(3)(c), (d), (g) and (h) of the 1998 Regulations, any person who, immediately before the coming into force of regulations 3(2) to (4) of these Regulations, was an eligible person under regulation 8(3)(c), (d), (g) and (h) of the 1998 Regulations shall continue to be an eligible person for the purposes of Parts IV and V of those Regulations until 31st July 2003.

St Andrew's House,
Edinburgh
25th March 2003

MALCOLM CHISHOLM
A member of the Scottish Executive

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SCHEDULE

Regulation 3(7)

SCHEDULE 2 AS SUBSTITUTED BY THESE REGULATIONS

“SCHEDULE 2

Regulation 19(2) and (3)

VOUCHER VALUES – REPAIR

<i>Column 1</i>	<i>Column 2</i>							
<i>Nature of Repair to Appliance</i>	<i>Letter Codes – Values</i>							
	<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>E</i>	<i>F</i>	<i>G</i>	<i>H&I</i>
	£	£	£	£	£	£	£	£
Repair or replacement of one lens	9.75	17.90	26.50	67.25	21.10	28.45	35.60	74.55
Repair or replacement of two lenses	19.45	35.75	53.00	134.50	42.25	56.90	71.25	149.15
Repair or replacement of the front of a frame	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00
a side of a frame	5.95	5.95	5.95	5.95	5.95	5.95	5.95	5.95
the whole frame	11.80	11.80	11.80	11.80	11.80	11.80	11.80	11.80”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and restate the provisions in the National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2003 ([S.S.I. 2003/200](#)) (“the First Amendment Regulations”), which contained errors.

Regulation 2 of these Regulations, which revokes the First Amendment Regulations, comes into force on 31st March 2003 so that it is clear that the First Amendment Regulations never came into force.

Otherwise, these Regulations amend the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998 (“the 1998 Regulations”) which provide for payments to be made by means of a voucher system, in respect of eligibility to obtain a voucher and of costs incurred by certain categories of persons in connection with the supply, replacement and repair of optical appliances.

Regulation 3(2) and (3) make amendments to regulation 1 (citation, commencement and interpretation) and 8 (eligibility – supply of optical appliances) of the 1998 Regulations consequent to the abolition of disabled person’s tax credit and working family tax credit and their replacement by child tax credit and working tax credit by the Tax Credits Act 2002.

Regulation 3(4) inserts a new regulation 12A into the 1998 Regulations to provide for the Scottish Ministers to issue notices of entitlement based on entitlement to the new child tax credit and working tax credit.

Regulation 3(5) amends regulation 19 of the 1998 Regulations to increase the redemption value of a voucher issued towards the cost of replacement of a single contact lens and to increase the maximum contribution by way of a voucher to the cost of repair of a frame.

Regulation 3(6) amends Schedule 1 to the 1998 Regulations to increase the value of vouchers towards the cost of the supply and replacement of optical appliances. Regulation 3(7) substitutes a new Schedule 2 in the 1998 Regulations to increase the value of vouchers issued towards the cost of the repair and replacement of optical appliances. Regulation 3(8) amends Schedule 3 to the 1998 Regulations to increase the additional values for vouchers for prisms, tints or photochromic lenses and special categories of appliances. The average rate of the increase is 2.5%.

Regulation 4 provides that the increases contained in regulations 3(5), (6), (7) and (8) only apply in relation to vouchers accepted or used on or after 1st April 2003.

Regulation 5 makes transitional provision for those persons who were entitled to a payment of, or contribution towards, the cost for the supply of an optical appliance by virtue of being in receipt of one of the old tax credits or being a member of a family of such a person.