

1974. No. 271

HEALTH AND PERSONAL SOCIAL SERVICES**Remission of Charges**

REGULATIONS, DATED 31ST OCTOBER 1974, MADE BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES WITH THE APPROVAL OF THE DEPARTMENT OF FINANCE UNDER THE HEALTH AND PERSONAL SOCIAL SERVICES (NORTHERN IRELAND) ORDER 1972.

The Department of Health and Social Services (hereinafter referred to as "the Department") in exercise of the powers conferred on it by Article 98 of and paragraph 1(b) of Schedule 15 to and Article 106 of the Health and Personal Social Services (Northern Ireland) Order 1972(a) and with the approval of the Department of Finance hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Health and Personal Social Services (Remission of Charges) Regulations (Northern Ireland) 1974 and shall come into operation on 1st November 1974.

Interpretation

- 2.—(1) In these regulations, unless the context otherwise requires—
- "children's glasses" means glasses for which a standard type of children's frame as described in the Statement of Fees and Charges is used;
 - "claim" means a claim for or in respect of a remission for which regulation 3 provides, and "claimant" shall be construed accordingly;
 - "current specified cost" in relation to frames supplied in accordance with arrangements made under Part VI of the Order means the sum specified in the Statement of Fees and Charges as the sum payable for frames of that description by the person to whom they are supplied and in relation to frames supplied by any hospital vested in the Department means a sum equal to the sum specified as aforesaid, or in the case of frames of a description for which no sum is so specified, such sum as may be determined by or in accordance with directions given by the Department;
 - "optical appliance" means an appliance designed to correct, remedy or relieve a defect of sight;
 - "the Order" means the Health and Personal Social Services (Northern Ireland) Order 1972;
 - "out-patient" means a patient receiving hospital services who is not for the time being resident in a hospital;
 - "remission" includes exception;
 - "Statement of Fees and Charges" means the Statement of Fees and Charges prepared under Regulation 5 of the Health and Personal Social Services (General Ophthalmic Services) Regulations (Northern Ireland) 1973(b).

(a) S.I. 1972, No. 1265 (N.I. 14).

(b) S.R. & O. (N.I.) 1973, No. 417.

Remission of charges

3. A person to whom this regulation applies shall subject to regulations 5 and 7—

- (a) be excepted from liability for any charges which are payable apart from this regulation by him by virtue of regulations made under Articles 61(2)(d)(ii) and Article 62(2)(e)(ii) of the Order and under Article 98 of the Order in relation to charges for appliances payable by outpatients of hospitals vested in the Department; and
- (b) have remitted any charges which are payable apart from this regulation by him under regulations made under Article 98 of the Order in relation to—
 - (i) the provision of dental treatment and appliances;
 - (ii) the testing of sight and the supply of optical appliances, and
 - (iii) the supply of appliances to outpatients of hospitals vested in the Department.

Application of remission

4. Regulation 3 applies—

- (a) to a person, being a member of a family for which a family income supplement is payable under the Family Income Supplements Act (Northern Ireland) 1971(c) the weekly amount of whose income calculated as at the date that the claim for that supplement was made or treated as made and in like manner as a person's normal gross income is computed pursuant to regulations made under section 4(2) of that Act, is at a weekly rate less than the amount prescribed in relation to that family in or under section 2 of that Act;
- (b) to a person
 - (i) belonging to a family a member of which is receiving free of charge welfare food under the Welfare Foods Act (Northern Ireland) 1968(d) and Welfare Foods Regulations (Northern Ireland) 1973(e) as amended (f), and
 - (ii) the weekly amount of whose income, calculated under the provisions of Regulation 3 of the said Regulations as at the date of the application for that food as if it were his resources, is at a weekly rate less than the weekly amount of his requirements as so calculated;
- (c) to a person during the validity of an exemption certificate issued for him by the Department under the provisions of Regulation 15(1)(f)(ii) of the Health and Personal Social Services (Charges for Drugs and Appliances) Regulations (Northern Ireland) 1973(g) the weekly amount of whose income calculated under the provisions of that regulation as at the date of issue of that certificate and as if it were his resources, is at a weekly rate less than the weekly amount of his requirements as so calculated; and
- (d) to a person the weekly amount of whose income calculated pursuant to a claim and under regulation 6 as if it were his resources is at a weekly rate less than the sum of the weekly amount of his requirements as so calculated and one third of the amount of the charge to which the claim relates.

(c) 1971. c. 8 (N.I.).

(d) 1968. c. 26 (N.I.).

(e) S.R. & O. (N.I.) 1973, No. 396.

(f) S.R. & O. (N.I.) 1973, No. 501.

(g) S.R. & O. (N.I.) 1973, No. 419.

Restrictions on remission

5.—(1) The remission of charges for which regulation 3 provides shall not apply—

- (a) to charges in respect of the supply, replacement or repair of any optical appliance other than children's glasses or an optical appliance which is clinically necessary, payable by a person who was, at the time of the examination or testing of sight leading to the supply of the optical appliance or of the first such examination or testing, under sixteen years of age or receiving full time education at any school which is a grant aided school for the purposes of the Education and Libraries (Northern Ireland) Order 1972(h);
- (b) to so much of the charge for the whole or part of a frame supplied or replaced as part of an optical appliance (except where such frame so supplied or replaced or the frame part of which is so replaced is clinically necessary) as exceeds the appropriate charge for the whole or corresponding part of the frame (other than a children's frame) which has the lowest current specified cost;
- (c) to charges for the replacement of a dental appliance in cases where it is determined under regulation 15 of the Health and Personal Social Services (General Dental Services) Regulations (Northern Ireland) 1973(i) that the replacement is necessitated by an act or omission on the part of the patient or (if it occurred when he was under 16 years of age) of his or of the person having charge of him when it occurred.

(2)(a) In a case to which regulation 4(d) applies, and subject to the provisions of paragraph (1), the remission of charges for which regulation 3 provides shall be limited in respect of a claimant to the amount, if any, by which the sum of his claims (including those of any person whose requirements and resources are, pursuant to the calculation hereinafter referred to, aggregated with his) in a claims period, exceeds three times the amount by which his resources as calculated by the Department in accordance with the provisions of regulation 6 exceed his requirements as so calculated.

(b) In this paragraph, in relation to a claimant, a claims period means a period of 21 days commencing with the day on which a claim is made, so however that no claims period shall commence until any previous claims period has expired.

Calculation of resources and requirements

6.—(1) For the purpose of regulation 4(d) the requirements and resources of a claimant shall be determined by the Department as if they fall to be determined in accordance with the provisions of paragraphs 3, 7, 8, 8A(1)(a), 8A(1)(b)(i), 8A(1)(c), 9, 10, 12, 13 and 15 to 23(1) and 24 to 29 of Schedule 2 to the Supplementary Benefit &c. Act (Northern Ireland) 1966(j) and as if—

- (a) in sub-paragraph (1)(a) of paragraph 23 of the said Schedule (which relates to the calculation of weekly earnings) for "£1.00" there were substituted "£2.00"; and
- (b) the claimant's requirements were deemed to include—
 - (i) the sum of £1.50;
 - (ii) such amounts in respect of mortgage repayments as the Department may allow;
 - (iii) subject to the provisions of paragraph (2) such amounts in respect of hire purchase repayments as the Department may allow; and

(h) S.I. 1972, No. 1263 (N.I. 12).
 (i) S.R. & O. (N.I.) 1973, No. 418.

(j) 1966. c. 28 (N.I.).

(iv) subject to the provisions of paragraph (2) such further amounts as the Department may in special circumstances allow.

(2)(a) In determining what, if any, amount to allow under paragraph (1)(b)(iii) or (1)(b)(iv), where an amount which falls to be included under paragraph 9 or 10 of the said Schedule is preceded by the symbol "(b)" or "(c)", an amount under the said paragraph (1)(b)(iii) or (1)(b)(iv) shall be allowed only to the extent that it exceeds the sums mentioned in paragraphs 8A(2)(b)(i) and (ii) respectively of the said Schedule, subject to the provisions of sub-paragraph (3) of the said paragraph 8A.

(b) Where by virtue of paragraph 3 of the said Schedule the requirements and resources of the claimant would be aggregated with those of some other person, the requirements and resources when determined as aforesaid, shall be aggregated and shall be treated as if they were those of the claimant.

Conditions of remission

7.—(1) Any claim for the remission of a charge for which regulation 3 provides shall be made by or on behalf of the claimant on a form provided for the purpose by or on behalf of the Department.

(2) It shall be a condition of the remission of such a charge that the claimant shall, if the Department so requires, produce in support of his claim thereto such evidence as the Department may specify.

Repayments

8.—(1) Subject to the following provisions of this regulation, a claimant shall be entitled to repayment of any charge paid by or in respect of him for the remission of which regulation 3 provides if at the time the charge was paid, that regulation applied to him.

(2) Any claim for a repayment of such a charge shall be made within six months after the date on which the charge was paid.

(3) Any claim for repayment of such a charge shall be accompanied by the relevant receipt and shall be made on a form provided for the purpose by or on behalf of the Department which shall be duly completed and signed by or on behalf of the claimant.

(4) It shall be a condition of the repayment of such a charge that the claimant shall, if the Department so requires, produce in support of his claim thereto such evidence as the Department may specify.

Revocation

9. Regulation 10(2)(b) and (c) of the Health and Social Services (Charges for Drugs and Appliances) Regulations (Northern Ireland) 1973 and the proviso to regulation 20(2) of the Health and Personal Social Services (General Ophthalmic Services) Regulations (Northern Ireland) 1973 shall cease to have effect.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland this 31st day of October 1974.

(L.S.)

F. A. Elliott,

Assistant Secretary.

Sealed with the Official Seal of the Department of Finance for Northern Ireland this 31st day of October 1974.

(L.S.)

R. M. MacDonald,

Assistant Secretary.

EXPLANATORY NOTE

(This note is not part of the regulations, but is intended to indicate their general purport.)

These regulations provide for the remission to persons whose income is low of certain charges which may be made and recovered in pursuance of regulations made under the Health and Personal Social Services (Northern Ireland) Order 1972. The charges are those for the supply and, in certain circumstances for the replacement and repair, of dental, optical and certain other appliances. Provision is also made for the repayment of charges inadvertently paid and for limiting the amount of remission in certain cases.