

1977 No. 316

SOCIAL SECURITY

**The Social Security (Hospital In-Patients) (Amendment) Regulations
(Northern Ireland) 1977**

Made 3rd November 1977

Coming into operation 14th November 1977

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 81(4)(d), 82(6)(b) and 85(1) of the Social Security (Northern Ireland) Act 1975(a) and paragraph 3 of Schedule 3 to the Social Security (Consequential Provisions) Act 1975(b) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations, which may be cited as the Social Security (Hospital In-Patients) (Amendment) Regulations (Northern Ireland) 1977, shall be read as one with the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(c) as amended(d) (hereinafter referred to as “the principal regulations”), and shall come into operation on 14th November 1977.

(2) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(e) shall apply in relation to this statutory rule and the regulation revoked by it as if this statutory rule and the regulation revoked by it were Acts of Parliament and as if the revocation were a repeal.

Amendment of Part I of the principal regulations

2. In regulation 2(1) of the principal regulations (interpretation) after the definition of “40% of the standard rate” there shall be inserted the following definition:—

“‘week’ means any period of 7 consecutive days;”.

Amendment of Part II of the principal regulations

3.—(1) Regulations 6 and 7 of the principal regulations (adjustment of personal benefit after respectively 52 and 104 weeks in hospital) shall be amended in accordance with the following provisions of this regulation.

(2) For regulation 6(3) there shall be substituted the following:—

“(3) In relation to any beneficiary who is married this regulation and regulation 7 shall have effect subject to the following provisions:—

(a) if the husband or wife of the beneficiary is receiving free in-patient treatment after having received that treatment continuously for a period of not less than 52 weeks, then, notwithstanding regulation 2(3), for the purposes of this regulation or, as the case may be, regulation 7, he or she shall not be regarded as a dependant of that beneficiary;

(a) 1975 c. 15

(e) 1889 c. 63

(b) 1975 c. 18

(c) S.R. 1975 No. 109 (I, p. 694)

(d) The relevant amending regulations are S.R. 1975 No. 202 (II, p. 1036) and 1977 Nos. 73 and 166

(b) if—

- (i) on a day on which the beneficiary is receiving free in-patient treatment after having received that treatment continuously for a period of more than 52 weeks, his wife or her husband is receiving such treatment after having received it continuously for a period of 52 weeks immediately preceding that day, and
- (ii) the provisions of paragraph (2) have not applied in relation to any part of the period of free in-patient treatment received by the beneficiary before that day,

paragraph (2) shall apply as if the part of the period of free in-patient treatment received by the beneficiary after the first 52 weeks of that treatment had begun on that day.”

(3) In regulation 7(3)—

(a) there shall be inserted at the beginning “Subject to regulation 6(3)”; and

(b) regulation 7(3)(c) shall be omitted.

(4) For regulation 7(4) there shall be substituted the following:—

“(4) For any part of the period to which regulation 4(e) applies—

- (a) during which paragraph (3)(b) applies, and
- (b) but for the provisions of that paragraph, during which the beneficiary’s wife would have been regarded as his dependant, and
- (c) in respect of which the beneficiary has not made an application in accordance with regulation 6(5) in relation to any other person who is his dependant,

paragraph (1) shall not apply to that beneficiary and the weekly rate of his personal benefit shall be reduced by an amount equal to the total sum of 20% of the standard rate and the difference between the standard rate and the lower weekly rate specified in Schedule 4 to the Act for Category B retirement pension, so however that where such a reduction would reduce the weekly rate to less than 20% of the standard rate, the reduction shall be such as will reduce it to that 20%.”

Amendment of Part III of the principal regulations

4. For regulations 9 to 12 of the principal regulations (adjustment of dependency benefit) there shall be substituted the following regulations:—

“*Circumstances in which dependency benefit is to be adjusted*

9. Where, in respect of any period during which—

- (a) the conditions for the receipt by a beneficiary of any dependency benefit under the Act are satisfied, and
- (b) the beneficiary or a dependant in respect of whom that dependency benefit is, or but for this regulation would be, payable, has been an in-patient continuously for a period of more than 8 weeks,

the weekly rate of that dependency benefit thereafter shall be adjusted—

- (i) where the beneficiary is an in-patient, in accordance with regulation 10;
- (ii) where the husband or wife of the beneficiary is the dependant and is an in-patient, whether or not the beneficiary is also an in-patient, in accordance with regulation 11.

except that in any case where the dependant is an in-patient and is a child, the adjustment of the weekly rate of dependency benefit in respect of him shall be in accordance with regulation 13.

Adjustment of dependency benefit where beneficiary is in hospital

10. Subject to regulation 11, for any part of the period during which the beneficiary is an in-patient after having been an in-patient for a period of not less than 52 weeks no dependency benefit shall be payable unless the beneficiary makes an application to the Department which complies with regulation 12.

Adjustment of dependency benefit where dependant is husband or wife of beneficiary and is in hospital

11.—(1) Subject to the following paragraphs, in a case to which regulation 9(ii) applies, for any part of the period of continuous free in-patient treatment which the dependant receives, the weekly rate of dependency benefit payable—

- (a) after the first 8 weeks and before the 105th week, shall be reduced by 20% of the standard rate, so however that where such a reduction would reduce the weekly rate to less than 20% of the standard rate, the reduction shall be such as will reduce it to that 20%;
- (b) after the 104th week, shall be adjusted so that 20% of the standard rate is payable.

(2) Where the beneficiary is a man and the dependant is his wife who is residing with him, the sum mentioned in paragraph (1)(b) shall not be payable unless he—

- (a) is regularly incurring expenditure in respect of her, or
- (b) is regularly making, or causing to be made, some payment to her or to some other person for her benefit,

and the provisions of regulation 10 shall not apply.

(3) Where both the dependant and the beneficiary are in-patients after each having been in-patients continuously for a period of not less than 52 weeks, the following provisions shall apply:—

- (a) for any part of the period of free in-patient treatment received by the beneficiary—
 - (i) which occurs after the 52nd week of that treatment and during that part of the period during which the dependant is an in-patient which occurs after the 52nd week and before the 105th week of the dependant's treatment, and
 - (ii) in respect of which the beneficiary makes an application to the Department which complies with regulation 12 to pay on his behalf to that dependant or some other person mentioned in regulation 12(b)(i) so much (if any) of the dependency benefit as would, but for this regulation, be payable to the beneficiary in excess of 40% of the standard rate,

the weekly rate of the dependency benefit which would, but for this regulation, be payable shall be reduced by 20% of the standard rate, so however that where such a reduction would reduce the weekly rate to less than 20% of the standard rate, the reduction shall be such as would reduce it to that 20%;

- (b) for any other period the weekly rate of dependency benefit shall be adjusted so that 20% of the standard rate is payable.

Application to the Department for the purposes of regulations 10 and 11

12. An application to the Department for the purposes of regulations 10 and 11 is an application by the beneficiary to the Department to pay such sums as are specified in those regulations on behalf of the beneficiary either—

- (a) to the dependant, except that in a case to which regulation 11(3)(a)(ii) applies the sum there mentioned shall only be payable to the dependant if he or she is discharged from the hospital or similar institution in circumstances to which regulation 15(1) applies and it shall then be payable in accordance with the other provisions of that regulation; or
- (b) to some other person who is approved by the Department and who satisfies the Department that he will apply the sums either—
 - (i) in a case to which regulation 11(3)(a) applies, for the benefit of a child of the beneficiary, or
 - (ii) in any other case, for the benefit of the dependant.”.

Amendment of Part IV of the principal regulations

5.—(1) In regulation 14 of the principal regulations (aggregation of personal benefits) after “to a beneficiary,” there shall be inserted “where those benefits have been adjusted in accordance with the Overlapping Benefits Regulations”.

(2) In regulation 15 of the principal regulations (benefit payable on discharge from a hospital or similar institution)—

- (a) in paragraph (3)(a), “after an interval of less than 28 days,” shall be deleted;
- (b) after paragraph (3)(a), “or” shall be deleted.

(3) In regulation 16 of the principal regulations (adjustment or further adjustment of benefit in certain cases after 52 weeks in hospital)—

- (a) in paragraph (1)(b) for the reference to “regulation 11(5)(a) or (b)(i)” there shall be substituted a reference to “regulation 11(3)(a)”;
- (b) in paragraph (1) for “to which regulations 6, 7, 11(2) and (3) and 12(3) apply” there shall be substituted “for which, in the case of personal benefit, the beneficiary or, in the case of dependency benefit, each of the beneficiary and the beneficiary’s wife or husband is receiving free in-patient treatment after having received that treatment continuously for a period of not less than 52 weeks”;
- (c) in paragraph (6) for the reference to “regulation 11(5)(a) or (b)(ii)” there shall be substituted a reference to “regulation 12”.

(4) In regulation 17 of the principal regulations (calculation of periods)—

- (a) in paragraph (2) for “any prescribed accommodation—(a)” there shall be substituted “any prescribed accommodation,” and for “he so resided; or (b)” there shall be substituted “he so resided, except that”;
- (b) in paragraph (3)(b), the reference to “section 1 of the Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971 or” shall be deleted.

Amendment of Part V of the principal regulations

6. In regulation 20 of the principal regulations (transitional provisions) there shall be added at the end—

“, and in the application of these regulations in relation to a person who—

- (a) immediately before 5th July 1948, was entitled to any sum by virtue of section 55(3) of the National Health Insurance Act 1936(f) (payment of benefit under that Act to a person after he had left an institution);
- (b) subsequently satisfied the conditions of regulation 15; and
- (c) has been receiving free in-patient treatment throughout the period from that day to the date of his discharge from the hospital or similar institution,

there shall be payable only so much (if any) of resettlement benefit mentioned in regulation 15 as does not exceed the amount (if any) by which £50·00 exceeds the said sum, and that no part of that amount shall become payable until after payment to him of the said sum.”.

Revocation

7. Regulation 21 of the principal regulations is hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 3rd November 1977.

(L.S.)

C. G. Oakes
Senior Assistant Secretary

EXPLANATORY NOTE

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

These regulations contain miscellaneous amendments, including minor and drafting amendments, to the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975. Regulation 4 revises the provisions in those regulations relating to the adjustment of dependency benefits. Regulation 6 makes further transitional provisions in the case of persons who have been in hospital since before 1948, and the regulations revoke a transitional provision which is spent.