

1989 No. 111

HEALTH AND PERSONAL SOCIAL SERVICES

Dental Charges Regulations (Northern Ireland) 1989

Made 29th March 1989

Coming into operation 1st April 1989

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The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 61, 98, 106 and 107 of and Schedule 15 to the Health and Personal Social Services (Northern Ireland) Order 1972(a) and with the approval of the Department of Finance and Personnel(b) in so far as

(a) S.I. 1972/1265 (N.I. 14). As amended by S.I. 1988/594 (N.I. 2) and S.I. 1988/2249 (N.I. 24)
(b) Formerly Department of Finance: see S.I. 1982/338 (N.I. 6) Art. 3

they relate to Schedule 15 of that Order and in conjunction with the Department of Finance and Personnel in so far as they relate to Article 61 of that Order and of every other power enabling it in that behalf, and after consultation, in accordance with Article 61(4) of that Order with such organisations as appeared to the Department to be representative of the dental profession, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Dental Charges Regulations (Northern Ireland) 1989 and shall come into operation on 1st April 1989.

(2) In these regulations—

“basic type” means, in relation to a dental appliance, a type no more expensive than that which would normally be supplied for such a reasonable standard of dental efficiency and oral health as is necessary to safeguard general health;

“Board” means a Health and Social Services Board established under Article 16 of the Order for any area;

“bridge” means a fixed or a removable bridge which takes the place of any teeth;

“Committee” means the Dental Committee constituted under regulation 8 of the General Dental Services Regulations;

“dental estimate form” has the same meaning as in the General Dental Services Regulations;

“General Dental Services Regulations” means the Health and Personal Social Services (General Dental Services) Regulations (Northern Ireland) 1975(a);

“denture” does not include an obturator;

“the Order” means the Health and Personal Social Services (Northern Ireland) Order 1972;

“patient” includes a person who pays or undertakes to pay a charge on behalf of a person to whom a dental appliance is supplied or to whom some other service is provided;

“Statement of Dental Remuneration” means the Statement published under regulation 18 of the General Dental Services Regulations;

“Statement remuneration” has the meaning assigned to it by regulation 4(2) and (3);

“supply”, in relation to an appliance, includes its replacement.

Charges for supply of dental appliances

2.—(1) Subject to paragraph (2) and to regulation 5(1), a charge of the amount provided for by regulation 4 may be made and recovered under paragraph 1(a)(iaa) of Schedule 15 to the Order in accordance with these regulations in respect of the supply under the Order of dentures and bridges.

(2) No charge shall be made and recovered under paragraph 1(a)(iaa) of Schedule 15 to the Order in respect of—

(a) S.R. 1975 No. 227. The relevant amending regulations are S.R. 1980 No. 285, S.R. 1987 No. 190 and S.R. 1988 No. 53

- (a) a supply, otherwise than as part of general dental services, to a person who has undergone operative procedures affecting the mandible, the maxilla or the soft tissues of the mouth as part of treatment for invasive tumours;
- (b) a supply, otherwise than as part of general dental services, to a patient for the time being resident in a hospital; or
- (c) a supply as part of general dental services for which a charge may be made under regulation 9(2).

Charges for other general dental services

3.—(1) Subject to paragraph (2) and to regulation 5(2), the amount of the charge which may be made and recovered under paragraph 1(a)(ia) of Schedule 15 to the Order in respect of services provided as part of general dental services is that provided for by regulation 4.

(2) No charge shall be made and recovered under paragraph 1(a)(ia) of Schedule 15 to the Order in respect of:—

- (a) the supply of a dental appliance described in regulation 2(1);
- (b) a visit by a dental practitioner to a patient;
- (c) the opening by a dental practitioner of his surgery outside his normal opening hours in order to provide emergency treatment; or
- (d) the attendance of a medical practitioner or of another dental practitioner, specifically with a view to the administration of a general anaesthetic in connection with emergency treatment at the surgery of a dental practitioner providing emergency treatment.

Calculation of charges

4.—(1) Subject to paragraphs (4) and (5), the amount of the charge which may be made and recovered under Schedule 15 to the Order for the supply of an appliance described in regulation 2(1) and for the provision of services other than those described in regulation 3(2) is 75% of the Statement remuneration (rounded down, where necessary, to the nearest whole penny), being an amount not exceeding that which the Department considers to be the cost to the health service (within the meaning of paragraph 1A(5) of Schedule 15 to the Order) of the supply or provision.

(2) In these regulations "Statement remuneration" means—

- (a) in relation to the supply (whether or not as part of general dental services) of an appliance described in regulation 2(1), the remuneration provided for by the Statement of Dental Remuneration as that payable to a dental practitioner for the supply of an appliance of that type;
- (b) in relation to other services provided in pursuance of a contract or arrangement for the provision of general dental services, the total amount provided for by that Statement as that payable to the dental practitioner for the provision of those services under that contract or arrangement.

(3) For the purposes of paragraph (2), where the Statement remuneration for any service is a fee of such amount as the Committee may in its discretion approve, whether or not subject to a maximum, the amount is—

- (a) if the Committee has approved a fee for the service, the amount of the fee so approved, notwithstanding any subsequent variation of that amount on appeal(a);
 - (b) if the Committee has refused to approve a fee for the service, the amount of any fee authorised for it on appeal.
- (4) Where a dental practitioner—
- (a) has, under a contract or arrangement for the provision of general dental services, begun to provide for a patient services which include the supply of an appliance described in regulation 2(1); and
 - (b) has referred that patient, for the supply of that appliance otherwise than as part of general dental services, to a Board or to a person or body pursuant to arrangements made under Article 71 of the Order;
- the amount of the charge for that supply shall be calculated in accordance with Schedule 1, and the dental practitioner shall provide the Board or other person or body with a written statement of the amounts mentioned in sub-paragraphs (a) and (b) of paragraph 1 of that Schedule.
- (5) The amount of the charges payable under Schedule 15 to the Order in respect of all dental appliances supplied and other services provided in pursuance of any one contract or arrangement for the provision of general dental services shall not exceed £150 in the aggregate.

Exemption

5.—(1) No charge shall be made under paragraph 1(a)(iaa) of Schedule 15 to the Order in respect of the supply of a dental appliance if at the relevant time the person for whom that appliance was supplied—

- (a) was under 16 years of age or was under 19 years of age and receiving qualifying full time education; or
- (b) was an expectant mother or had borne a child within the previous twelve months.

(2) No charge shall be made under paragraph 1(a)(ia) of Schedule 15 to the Order in respect of services provided for any person who on the date of the contract or arrangement for the services—

- (a) was under 18 years of age or was under 19 years of age and receiving qualifying full time education; or
- (b) was an expectant mother or had borne a child within the previous twelve months.

Conditions for exemption

6.—(1) It is a condition of the exemption under regulation 5 in respect of the supply of a dental appliance to a person otherwise than as part of general dental services that—

- (a) a written declaration on a form provided for that purpose by the Department shall be made to the effect that that person is, at the time of the examination leading to the supply of the appliance, within one of the specified categories; and

(a) S.R. 1975 No. 227. The relevant amending regulation is S.R. 1980 No. 285

(b) where the Department so requires, the specified evidence shall be supplied by or on behalf of that person.

(2) It is a condition of the exemption under regulation 5 in respect of the supply of a dental appliance, or other services provided, to a person as part of general dental services that—

(a) a written declaration on a dental estimate form shall be made to the effect that that person is, on the date of the contract or arrangement for the services, within one of the specified categories; and

(b) where the Agency so requires, the specified evidence shall be supplied by or on behalf of that person.

(3) The declarations referred to in paragraphs (1)(a) and (2)(a) shall be made by the person to whom the services are to be provided, except that where the application for services is made by another person on his behalf (a) it shall be made instead by the person who applies for the services.

(4) Nothing in paragraph (1)(b) or (2)(b) prevents the Department or the Agency from accepting evidence other than the specified evidence as establishing that a person is within one of the specified categories.

(5) In this regulation “the specified categories” means the categories of person set out in column (1) of Schedule 2 and “the specified evidence”, in relation to any of those categories, means the evidence specified in relation to it in column (2) of that Schedule.

Making and recovery of charges

7.—(1) Where any charge is payable under paragraph 1(a)(iaa) of Schedule 15 to the Order in respect of the supply of a dental appliance under the Order otherwise than as part of general dental services, the Board may—

(a) on arranging to supply it, make the appropriate charge; and

(b) on supplying it or having it available for supply, recover the appropriate charge from the patient (if it has not previously been paid).

(2) In providing general dental services for which a charge may be made under Schedule 15 to the Order, a dental practitioner—

(a) may on arranging to provide the service, make the appropriate charge;

(b) shall require the patient to acknowledge, on the appropriate part of the dental estimate form, and before that form is sent to the Agency, his obligation to pay the charge;

(c) may, on providing the service, recover the charge from the patient (if it has not previously been paid); and

(d) shall, on receiving a sum in payment (in full or in part) of the charge, give a receipt for it on a form provided for that purpose by the Agency or a form to the like effect.

(3) Where a declaration in support of a claim for exemption has been made under regulation 6(2)(a) but the claim is not substantiated, and in consequence of the claim a dental practitioner has not recovered a charge in

(a) In the case of general dental services: see S.R. 1975 No. 227, regulation 12

respect of an appliance supplied or other services provided, the Agency may recover the charge from the person who made the declaration (whether or not the obligation to pay has been acknowledged).

Remission and repayment

8. The charges which may be made and recovered by virtue of the preceding provisions of these regulations are subject to the provisions of regulations made under paragraph 1(b) of Schedule 15 to the Order providing for remission or repayment.

Charges for more expensive supplies and repairs

9.—(1) Where a Board—

- (a) supplies a dental appliance which is, at the request of the person supplied, of a type more expensive than the basic type; or
- (b) repairs such a dental appliance at a cost exceeding that of repairing a dental appliance of the basic type,

it may make and recover from the patient a charge equal to the difference between the cost of supplying or repairing the appliance and the cost of supplying or repairing an appliance of the basic type, in addition to any charge authorised by Schedule 15 to the Order.

(2) Where a dental practitioner providing general dental services, as part of those services and at the request of the person supplied,—

- (a) supplies a denture which is of a type more expensive than the basic type;
- (b) repairs such a denture at a cost exceeding that of repairing a denture of the basic type; or
- (c) supplies a bridge which is of a type more expensive than a denture or a bridge of the basic type,

he may, subject to paragraph (4), make and recover from the patient in respect of the supply or repair of the appliance a charge of an amount calculated in accordance with Part I of Schedule 3.

(3) Part II of Schedule 3 shall have effect with respect to the procedure for determining the amount of the charge referred to in paragraph (2).

(4) In the case of an appliance supplied or repaired by a dental practitioner who is remunerated in accordance with Determination IV of the Statement of Dental Remuneration (salaried dentists), the Agency, and not the dental practitioner, shall make and recover the charge.

Charges for replacement — general dental services

10.—(1) Where a dental practitioner providing general dental services replaces a dental appliance supplied as part of those services and it is determined in accordance with Schedule 4 that the replacement is necessitated by—

- (a) an act or omission on the part of the person supplied; or
- (b) if the act or omission occurred when the person supplied was under 16 years of age, an act or omission of the person supplied or of the person having charge of him when the act or omission occurred,

the dental practitioner may make and recover a charge from the relevant person.

(2) The amount of the charge to be made and recovered under paragraph (1) is, subject to paragraph (3), the Statement remuneration for the supply of the dental appliance.

(3) If the Agency considers—

(a) that payment of the full amount of the charge under paragraph (1) would involve undue hardship to the relevant person; or

(b) that the replacement, though necessitated by the relevant person's act or omission, was not wholly necessitated by lack of reasonable care on his part,

it may determine that the charge shall not be payable, or that its amount shall be reduced.

(4) In this regulation, "relevant person" means—

(a) where paragraph (1)(b) applies, the person having charge of the person supplied when the act or omission occurred;

(b) in any other case, the person supplied.

Discontinuation of treatment — general dental services

11. A dental practitioner providing general dental services may decline—

(a) to begin treatment; or

(b) where treatment has begun, to continue with it,

until he or the Agency has received payment of the amount of any charge payable to him or it in accordance with these regulations.

Reduction of remuneration and accounting for charges — general dental services

12.—(1) Subject to paragraph (2), the remuneration which would otherwise be payable by a Board to a dental practitioner providing general dental services shall be reduced by the amount of the charges authorised by these regulations in respect of those services.

(2) Paragraph (1) does not apply to remuneration under Determination IV of the Statement of Dental Remuneration (salaried dentists).

(3) A dental practitioner remunerated under Part IV of the Statement of Dental Remuneration shall account for and pay to the Agency, in such manner as it may require, the amount of any charges recovered from a patient under these regulations.

Revocations, amendment, savings and application of regulations

13.—(1) The regulations specified in column (1) of Schedule 5 are revoked to the extent specified in column (3) of that Schedule.

(2) In Part I of Schedule 1 to the General Dental Services Regulations (terms of service), in paragraph 16(a), after sub-paragraph (iii) there is inserted the following sub-paragraph:—

“(iv) regulations 4(4), 7(2) and 9(2) to (5) of, and Schedule 2 to, the Dental Charges Regulations (Northern Ireland) 1989;”

(3) These regulations apply to the supply of a dental appliance otherwise than as part of general dental services only where the examination, or first examination, leading to the supply takes place on or after 1st April 1989; and where the examination or first examination leading to the supply takes place before 1st April 1989 the charge which may be made and recovered in respect of the supply shall be that authorised by the Order and regulations made under it as in operation at the time of that examination or first examination.

(4) These regulations apply to the provision of general dental services only where the contract or arrangement leading to the supply, as part of those services, of a dental appliance or to some other provision of general dental services is made on or after 1st April 1989; and where the contract or arrangement is made before that date, the charge which may be made and recovered in respect of the supply or the other provision of general dental services shall be that authorised by the Order and regulations made under it as in operation at the time when that contract or arrangement was made.

Sealed with the Official Seal of the Department of Health and Social Services on 29th March 1989.

(L.S.)

J. Scott

Assistant Secretary

Sealed with the Official Seal of the Department of Finance and Personnel in so far as the foregoing regulations relate to Article 61 of the Order on 29th March 1989.

(L.S.)

S. Quinn

Assistant Secretary

The Department of Finance and Personnel hereby approves the foregoing regulations in so far as they relate to Schedule 15 to the Order.

Sealed with the Official Seal of the Department of Finance and Personnel on 29th March 1989.

(L.S.)

S. Quinn

Assistant Secretary

**Calculation of Charge for Supply of Appliance on Referral to
Health and Social Services Board or other Person or Body**

1. There shall first be taken an amount ("£a") which is the greater of the following—

- (a) the amount of the charges which have been paid to the dental practitioner by the patient in respect of services provided under the contract or arrangement;
- (b) the amount of the charges including any amount already paid, which would be payable to the dental practitioner by the patient in respect of those services if no charge fell to be made in respect of the supply of the appliance.

2. The £a shall be compared with the full amount of the charges payable to the dental practitioner by the patient in respect of services provided under the contract or arrangement ("£b") and—

- (a) if £a equals or exceeds £b, there is no charge for the supply of the appliance;
- (b) if £a is less than £b, the charge for the supply of the appliance is—
 - (i) £b minus £a, or
 - (ii) 75% of the Statement remuneration for the supply of the appliance, whichever is the lesser amount.

SCHEDULE 2

Regulation 6(5)

Exemptions — Categories and Evidence

| Column (1) <i>Category</i> | Column (2) <i>Evidence</i> |
|---|---|
| 1. Under 18 years of age. | 1. The person's birth certificate. |
| 2. 18 years of age and receiving qualifying full-time education (within the meaning of regulation 2 of the Dental Services Regulations(a)). | 2. The person's birth certificate and a document signed by the principal or other appropriate officer of the recognised educational establishment or by or on behalf of the person providing instruction by other comparable means, to the effect that the person is receiving full-time instruction at the establishment or by other comparable means. |
| 3. Expectant mother. | 3. A certificate, signed by a registered medical practitioner, as to the pregnancy. |
| 4. Having borne a child in the previous 12 months. | 4. The child's birth certificate. |

(a) S.R. 1975 No. 227. The relevant amending regulation is S.R. 1981 No. 61

SCHEDULE 3

Regulation 9(2) and (3)

Charges for more Expensive Supplies and Repairs — General Dental Services

PART I

AMOUNT OF CHARGE

1. The amount of the charge which may be made and recovered under regulation 9(2) is, subject to paragraph 2, £x plus £y where—

- (a) £x is the amount of the charge which would be payable by the patient in respect of the supply or repair of the appliance if it were an appliance of the basic type;
- (b) £y is the difference between—
 - (i) the cost of supplying or repairing the more expensive appliance, and
 - (ii) the fees payable to the dental practitioner in accordance with Determination I of the Statement of Dental Remuneration in respect of the supply or repair of an appliance of the basic type, disregarding for this purpose any maximum fee in respect of combinations of dentures.

2. The aggregate of £x and the charges payable by the patient in respect of services provided in pursuance of the contract or arrangement other than the supply or repair of the appliance (“the other charges”) shall not exceed £150, so that—

- (a) where the other charges are £150 or more, the amount of the charge referred to in paragraph 1 is £y only;
- (b) where the other charges are of an amount less than £150, £x shall not exceed the difference between that amount and £150.

PART II

PROCEDURE

1. A dental practitioner who agrees to a request referred to in regulation 9(2) shall—

- (a) complete, on a dental estimate form, an estimate for the treatment of the patient, including the supply or repair of an appliance of the basic type;
- (b) complete a further estimate, on the supplementary estimate form set out in Determination VI of the Statement of Dental Remuneration or on a form to the like effect, of the cost of supplying or repairing the more expensive appliance;
- (c) require the patient to sign both estimates;
- (d) submit both estimates to the Agency for approval of the treatment.

2. If the Agency approves the estimates, it shall determine and indicate in the appropriate parts of the dental estimate form—

- (a) the amount of the charge to be made and recovered for the treatment set out in the estimate referred to in paragraph 1(a), other than for the supply or repair of an appliance of the basic type;
- (b) the amount of the charge which may be made and recovered under regulation 9(2) for the supply or repair of the more expensive appliance.

3. It is a condition of the approval by the Agency of any estimate submitted under paragraph 1 that the dental practitioner shall comply, in respect of any such estimate, with the conditions with respect to materials set out in Determination III of the Statement of Dental Remuneration.

Manner of determining Charge for Replacement

1. Where the Agency, on considering an estimate submitted for the approval of a free replacement of a dental appliance supplied as part of general dental services, considers that there are grounds for believing that the replacement is necessitated by such an act or omission as is referred to in regulation 10(1), it may investigate the matter.

2. The Agency shall make such inquiry into the matter referred as it thinks fit and if either—

(a) in its opinion the circumstances so require; or

(b) the person supplied or (if he is under 16 years of age) the person in charge of him so requires,

the inquiry shall take the form of an oral hearing by a committee of the Agency appointed for the purpose which shall report to the Agency on the matter.

3. The Agency, having considered any report made by its committee under paragraph 2—

(a) shall determine whether the replacement is necessitated by an act or omission on the part of the person supplied or (if the act or omission occurred when the person supplied was under 16 years of age) of the person supplied or of the person having charge of him when the act or omission occurred; and

(b) if it is so necessitated, shall determine, in accordance with regulation 10(2) and (3), the amount of the charge to be made and recovered.

4. The Agency shall communicate its determination to—

(a) the relevant person (within the meaning of regulation 10(4));

(b) the dental practitioner replacing the appliance;

(c) the Committee.

SCHEDULE 5

Regulation 13(1)

Revocations

| Column (1) <i>Regulations revoked</i> | Column (2) <i>References</i> | Column (3) <i>Extent of Revocation</i> |
|---|---------------------------------|--|
| The Health and Personal Social Services (General Dental Services) Regulations (Northern Ireland) 1975 | S.R. 1975 No. 227 | (a) Regulation 14(3), (4), (5), (7), (8), (9), (10), (11) and (12). (b) Regulations 15, 16 and 17. (c) Schedule 1, paragraph 26. |
| General Dental Services (Amendment) (No. 2) Regulations (Northern Ireland) 1980. | S.R. 1980 No. 285 | Regulation 2(4). |
| Dental Charges Regulations (Northern Ireland) 1988 | S.R. 1988 No. 81 | The whole regulations. |
| Dental Charges (Amendment) Regulations (Northern Ireland) 1989 | S.R. 1989 No. 10. | The whole regulations. |
| Health and Personal Social Services (Charges for Drugs and Appliances) Regulations (Northern Ireland) 1973. | S.R. & O. 1973 No. 419 | Regulation 9 insofar as it applies to the supply of dentures to out-patients by hospitals. |

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations replace regulations providing for the making and recovery of charges for dental appliances supplied or repaired under the health service and for other dental treatment provided as part of health service general dental services. Accordingly, these Regulations provide for charges for the following:—

the supply of dentures and bridges, whether or not as part of general dental services (regulations 2, 4 and 7 and Schedule 1);

the provision of other dental treatment as part of general dental services (regulations 3, 4 and 7);

the supply or repair, whether or not as part of general dental services, of dental appliances of a type more expensive than would normally be supplied (regulation 9 and Schedule 3);

the replacement as part of general dental services of dental appliances lost or damaged by an act or omission of the patient (regulation 10 and Schedule 4).

Charges for replacement and repair under the health service, otherwise than as part of general dental services of dental appliances lost or damaged by an act or omission of the patient remain.

The Regulations provide in addition for conditions for statutory exemptions (regulation 6 and Schedule 2), discontinuation of general dental services where charges are not paid (regulation 11), the reduction of a dental practitioner's remuneration by the amount of the charge which is recoverable under the Regulations (regulation 12) and the revocation of the superseded Regulations on dental charges (regulation 13 and Schedule 5).

There are three changes of substance made by these Regulations.

First, the basis of the charge for the supply of all dentures and bridges is altered from a specified amount to that which applies to other treatment, namely a formula of 75% of the fees which are or would be payable to a dentist providing general dental services for the supply of a denture or bridge of the relevant type. This increases charges for dentures by an average of about 10% and charges for bridges of the Maryland type by about 1.5%. Other charges are unaffected.

Secondly, a provision authorising additional charges for certain types of conservative treatment (gold inlays, pinlays or crowns) more expensive than clinically necessary is removed.

Thirdly, the scope of the condition that documentary evidence be produced when a claim is made to be exempt from charges for dental appliances or other treatment as part of general dental services is extended to cases where exemption is claimed on grounds of being under 18 or under 19 and in full-time education (regulation 6 and Schedule 2), and the nature of the evidence to be produced in all cases of exemption is specified in the regulations.