

STATUTORY INSTRUMENTS

1974 No. 284

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service (Charges for Appliances)
Regulations 1974

<i>Made - - - -</i>	<i>25th February 1974</i>
<i>Laid before Parliament</i>	<i>7th March 1974</i>
<i>Coming into Operation</i>	<i>1st April 1974</i>

The Secretary of State for Social Services in exercise of powers conferred by section 3(2) of the National Health Service Act 1946(a), section 1 of the National Health Service Act 1951(b), section 1 of the National Health Service Act 1952(c), and section 1 of the National Health Service Act 1961(d) as amended by section 57(1) of the National Health Service Reorganisation Act 1973(e) and now vested in him(f), and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation

1. These regulations may be cited as the National Health Service (Charges for Appliances) Regulations 1974 and shall come into operation on the 1st April 1974.

Interpretation

- 2.—(1) In these regulations, unless the context otherwise requires—
- “the Act” means the National Health Service Act 1946;
 - “Authority” means as the case may require a Regional Health Authority, an Area Health Authority or any body specified in an order by the Secretary of State under section 15 of the Reorganisation Act; and in relation to a hospital not vested in the Secretary of State for Social Services with which arrangements have been made by an Authority for the provision of services under the Health Service Acts otherwise than under Part IV of the Act, shall mean that Authority;
 - “the Act of 1951” means the National Health Service Act 1951;
 - “the Act of 1961” means the National Health Service Act 1961;
 - “enactment” includes a provision in a Statutory Instrument;
 - “optical appliance” means an appliance designed to correct, remedy or relieve a defect of sight;
 - “optician” means an ophthalmic optician or a dispensing optician as the case may require;

(a) 1946 c. 81. (b) 1951 c. 31. (c) 1952 c. 25.
(d) 1961 c. 19. (e) 1973 c. 32.
(f) See Secretary of State for Social Services Order 1968 (S.I. 1968/1699:(1968 III, p. 4585)) Article 2.

(2) Unless the context otherwise requires, references in these regulations to an enactment shall be construed as references to that enactment as amended by any subsequent enactment.

(3) References in any other regulations to the regulations revoked by these regulations or to any provision thereof shall be construed as references to these regulations or to the corresponding provision hereof as the case may be.

(4) Unless the context otherwise requires, any references in these regulations to a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

(5) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(a) shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

Scope of regulations

3. These regulations relate to the supply of appliances by the Secretary of State or an Authority otherwise than under Part IV of the Act.

Dental appliances

4.—(1) Where an Authority—

(a) supplies a person at his request with a dental appliance of a more expensive type than that which is clinically necessary for dental fitness, or

(b) repairs such a dental appliance at a cost in excess of the cost of repairing a dental appliance which is so clinically necessary,

that Authority may make and recover from the person to or for whom such a dental appliance is supplied or repaired, a charge equal to the difference between the cost of supplying or repairing such a dental appliance and the cost of supplying or repairing such dental appliance as is clinically necessary.

(2) Where an Authority supplies a dental appliance the person supplied or a person on his behalf, shall be liable to pay to the Authority the charges authorised by the Act of 1951 as varied by section 1 of the Act of 1961 or by regulations made under section 2 of the Act of 1961.

Optical appliances

5.—(1) Where an Authority supplies or repairs for a person at his request—

(a) subject to paragraph (1)(b), an optical appliance specified in the Statement of a more expensive type than the prescribed type, or

(b) any optical appliance of a more expensive type than the type which is clinically necessary

then— (i) in a case to which paragraph (1)(a) applies, it may make and recover from that person or from a person on behalf of that person, such amount as is provided in the Statement as if such Statement applied to that Authority;

(ii) in a case to which paragraph (1)(b) applies it may make and recover from that person or from a person on behalf of that person a charge

equal to the difference between the cost of supplying or repairing such an optical appliance and the charge for supplying and repairing such optical appliance as is clinically necessary.

(2) Where an Authority supplies an optical appliance, the person supplied or a person on his behalf, shall be liable to pay to the Authority the charges authorised by the Act of 1951 as varied by section 1 of the Act of 1961 or by regulations made under section 2 of the Act of 1961.

(3) The foregoing paragraphs of this regulation shall apply where such supply or repair is provided by an optician under or by virtue of arrangements by an Authority with that optician, as if that optician were the Authority.

(4) For the purposes of this regulation—

(a) “the prescribed type” means an optical appliance specified in the Statement as the prescribed type of optical appliance for the purposes of section 44 of the Act;

(b) “the Statement” means the Statement prepared under regulation 3 of the National Health Service (Supplementary Ophthalmic Services) Regulations 1956(a), as amended (b).

Investigations

6.—(1) Where an appliance supplied by the Secretary of State or an Authority requires replacement or repair and the Secretary of State or the Authority as the case may require, has reason to believe that such replacement or repair is occasioned by an act or omission on the part of the person supplied 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, then—

(a) in relation to an appliance supplied by the Secretary of State, he may recover from the person supplied or from a person on his behalf, the cost of the repair or replacement, or any part thereof, after making such enquiries as seem to him to be necessary;

(b) in relation to an appliance supplied by an Authority, the Authority may refer the matter for consideration in accordance with the provisions of paragraph (3).

(2) Where any such appliance supplied otherwise than by an Authority by virtue of arrangements made by an Authority for the provision of such appliances, requires to be replaced or repaired the Authority may on a report by the person or authority supplying the appliance refer the matter for investigation in accordance with the provisions of paragraph (3).

(3) Where an Authority refers a matter for investigation under either of the preceding paragraphs, it shall appoint a committee consisting of not less than three persons to consider the matter and to determine whether the whole or any part of the cost of the replacement or repair of the appliance resulting from any such act or omission as aforesaid should be borne by or on behalf of the person supplied.

(4) The committee shall on completion of their inquiry report accordingly to the Authority who may take such further action thereon as it thinks fit.

(5) If in the opinion of the committee the circumstances so require or if the person concerned so demands any inquiry by the committee shall take the form of an oral hearing.

(a) S.I. 1956/1078 (1956 I, p. 1524).

(b) The amendments do not relate expressly to the subject matter of these Regulations.

Recovery of Charges

7. Any sum payable or recoverable under these regulations may without prejudice to any other method of recovery, be recovered summarily as a civil debt.

Declarations

8. It shall be a condition of exemption under section 1(3) or (4) of the Act of 1961 from a charge payable under section 1 of the Act of 1951, that a declaration in support of the claim to exemption is made on a form provided for the purpose by the Authority and if the Authority so requires such evidence as the Authority may specify shall be produced by or on behalf of the claimant in support of his claim.

Exceptions

9. No charge, which would otherwise be payable under section 1 of the Act of 1951, shall be payable in respect of the supply (including the replacement) of a dental appliance otherwise than under Part IV of the Act 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.

Revocations

10. The regulations named in the Schedule to these regulations are hereby revoked.

Provided that—

- (a) such revocation shall not affect any claim, right or liability made, acquired, accrued or incurred or anything duly done or suffered under those regulations;
- (b) such revocations shall not affect any legal proceedings commenced before the revocation or the commencement of any proceedings to enforce any such claim, right or liability as aforesaid but any such proceedings may be continued or commenced as if these regulations had not been made.

25th February 1974.

Keith Joseph.
Secretary of State for Social Services.

SCHEDULE

The National Health Service (Charges for Appliances) Regulations 1948	S.I. 1948/1505 (Rev. XV, p. 560: 1948 I, p.2050);
The National Health Service (Charges for Appliances) Regulations 1951	S.I. 1951/843 (1951 I, p. 1389).
The National Health Service (Charges for Appliances) Regulations 1961	S.I. 1961/909 (1961 II, p. 1757).
The National Health Service (Charges for Appliances) Regulations 1969	S.I. 1969/906 (1969 II, p. 2715).

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations consolidate Regulations revoked by them providing for charges in respect of the supply of appliances otherwise than under Part IV of the National Health Service Act 1946, subject to amendments required to give effect to the provisions of the National Health Service Reorganisation Act 1973.

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